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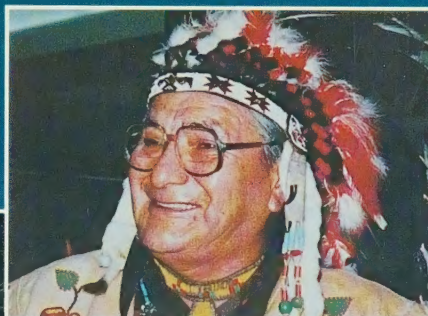
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NATIVE SELF-RELIANCE THROUGH RESOURCE DEVELOPMENT



PROCEEDINGS OF THE INTERNATIONAL CONFERENCE
"TOWARDS NATIVE SELF-RELIANCE, RENEWAL AND DEVELOPMENT"

Prepared by
WILLIAM F. SINCLAIR
with the cooperation of
PETER CLARK, ALAIN M. CUNNINGHAM AND DOUGLAS GORDON

NATIVE SELF-RELIANCE

NATIVE SELF-RELIANCE THROUGH RESOURCE DEVELOPMENT

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NATIVE SELF-RELIANCE THROUGH RESOURCE DEVELOPMENT

Prepared by

William F. Sinclair

with the cooperation of

Peter Clark, Alain M. Cunningham and Douglas Gordon

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Proceedings of International Conference
"Towards Native Self-Reliance Renewal and Development"
held in Vancouver, August 19-24, 1984

July, 1985
Vancouver, Canada



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Introductory Remark

As the Indian people move towards reassuming a greater control of their own affairs, the path to the ultimate goal of self-determination no doubt will be marked with many significant milestones. Upon reflection, this conference "Toward Native Self-Reliance, Renewal, and Development" may be remembered as one of those milestones.

As the Director General of the British Columbia Office of the Department of Indian and Northern Affairs, it was a special honour to be invited to participate in the opening sessions. As the first ever international conference held in Canada to deal with Native awareness and self-reliance, in such depth, the success is apparent from the quality of the discussions and papers so well recorded by these proceedings.

The event attracted participants and speakers on an international scale and was able to bring together their multifarious knowledge and experience. In this regard, I would like to applaud those who worked so diligently to make the conference a success. Acknowledgement should be given to its sponsor, Fraser Valley College, and the Program Development Committee. Thanks are due to Doug Gordon, Bill Zarchikoff, Mike Lewis, and many others, who initiated the concept. Finally, special thanks should be extended to the Workshop Coordinators who were responsible for setting the workshop format, arranging for participants, and recording the discussions. Bill Sinclair is responsible for this publication.

Owen Anderson
Director General
Department of Indian Affairs
and Northern Development
British Columbia

Foreword

Undoubtedly, many residents of Canada and the United States are somewhat confused about the wants and desires of their fellow Native citizens. Much of what is understood about aboriginal rights, self-government, and Native claims is learned through the popular media. As a result, many feel that there is no legal substance for aboriginal rights, that self-government necessarily impinges on national sovereignty, and that land claims pose a threat to individual ownership rights. A careful examination of this document should help to dispel most of these fears. It offers a perspective far less threatening than most non-Native North Americans generally believe.

Obvious from the contents of this report is the fact that Native people are asking to reacquire what they have lost in the past. They want to regain some control over the resources on which they traditionally depended. They want to share the same rights as other citizens of the United States and Canada. In short, they want the right to provide for themselves, as free and independent people, within their own cultural framework. They are asking for no more than what other minority groups already enjoy.

It is my hope that this report, and the conference on which it is based, will contribute to a better understanding among the general population about the aspirations of Native people. If this is indeed the case, the efforts of all those who participated in the conference, and in the preparation of these proceedings, will have been well worthwhile.

Fred J. Walchli
Director, Block Funding
Department of Indian Affairs
and Northern Development
Vancouver, Canada

Preface

This presentation contains the proceedings of a conference held in Vancouver, Canada, from the 19th to the 23rd of August, 1984. The purpose of the conference was to explore the opportunities for the aboriginal people of North America to regain their independence and self-reliance in today's modern society. The conference itself attracted over four hundred participants from all over North America and Europe. The delegates came from the Native communities of the United States and Canada, from the United States and Canadian governments, and from private industry. The representation was evenly split so that about one-third came from each of these three main groups. Also included among those attending were Canadian politicians, Native political and business leaders, and world renowned experts on development and the social sciences.

The conference was intended as a forum that would bring together those interested in Native issues to provide practical suggestions on how Indian people, government, and industry might work together to foster independence and improve the well-being of the Native people of the United States and Canada. It was not intended that it would serve as a platform for any particular point of view. Consistent with this approach, this report is not meant to serve as a vehicle for advocating the views of one group to the exclusion of the opinions and views of another. It is not a government report, a Native report, or a report by industry. The information contained in the report is meant to be an accurate reflection of what was said during the conference. The summaries presented herein, are meant to provide the reader with an accurate understanding of the deliberations, while taking into account the total of the information and arguments brought to bear on a particular subject. The fact that the views expressed in one session almost always are supported by the views expressed in others, is because there was overwhelming consensus among delegates on most important issues, and not because of any manipulation of information or deliberate distortion of the opinions of those attending.

In this report, the presentations given during each of the two preliminary plenaries, the workshops, and the concluding sessions are presented. The information was taken from tape recordings (better than half of the sessions were recorded). When a workshop was not taped, or a tape was undecipherable, the notes taken by the designated recorder to the session were used to summarize the presentations. In some cases, the written documents used by the presenters were included. If written documents varied from what was recorded, what was actually said to the delegates was used. The discussion from the floor is included in the report only when the information or opinions expressed during such discussions were not recorded elsewhere in the session. This was the situation in the opening plenary session and in the land claims

workshop. As a result, the floor discussions in these sessions are included in the report. The workshop summaries are meant as overviews of both the presentations and the discussions conducted in the workshops. They were discussed and reviewed with the member of the editorial board who participated in the workshop, or with the appropriate workshop coordinator. The overall summary does not necessarily include the results from each of the individual workshops. The reader wishing a quick review of what transpired in a particular workshop, should read the workshop summary, the appropriate section of the workshop report to the conference, and the overall conference summary.

I would like to acknowledge the help and cooperation I received in the preparation of this report. Members of the editorial board provided information, clarified the views of the participants of the workshop in which they were involved, and confirmed the accuracy of the workshop summaries, often on very short notice. Doug Gordon frequently arranged for secretarial assistance, helped to raise money required for publication, and kept those who participated in the conference informed about the progress made in preparing the proceedings. Doug prepared the first drafts of the workshop report to the conference and the conference synthesis. He also put together the presentations that are included in the water and agriculture and the arts and crafts workshops. Peter Clark helped arrange for financial support and offered many valuable suggestions on format. Peter outlined the presentations made in the tourism and recreation, and the non-renewable resources workshops. Beth Carter prepared the initial draft of the presentations made in the business and corporate development strategies workshop. Alain Cunningham, who was directly involved in most aspects of preparing this report, is responsible for preparing the community planning and economic development workshop.

I am particularly indebted to Fred Walchli for his support. I also owe much to Jon Evans for his kind and generous support. Without the support of these two individuals, this report could not have been completed.

A substantial amount of help was received from Bill Ewing, Marni Robertson, Earl Smith, David Walkem, and Ron MacLeod. Others who helped include Bill Zarchikoff, James MacGregor, and Ed Moore. Special thanks are due to the staff of the office of the Regional Director General, Department of Environment, in Vancouver for their cooperation. Of significance in this regard are the efforts of Doreen Warner. Peggy Bremner contributed greatly by typing the many drafts, editing for typing errors, and the reviewing of material. Lorene Netherwood of the Office of Native Claims, in Vancouver, was helpful through her special abilities on the word processor. Ann Grady helped to complete the final corrections on the word processor.

The magnitude of the contribution made by some individuals cannot be fully appreciated, unless it is understood that most of the work that went into the preparation of this report was volunteer help, over and above regular duties, which was often undertaken after hours. I wish to thank Sharon Baker of Reserves and Trusts for her special efforts in making this report possible. Sharon transcribed tapes, typed drafts, worked on the word processor, and took a deep personal interest in ensuring that this report was completed.

Others to whom I am indebted include those who are responsible for helping to finance this publication. Lonnie Hindle, Joe Leask, Tim Segger, and Lional Munaweera

were instrumental in providing this assistance.

While my debt to many is substantial, it would be misleading to suggest that the approach adopted, or the views expressed in this report, enjoy the support of all who have contributed. It is anticipated that almost everyone who reads the report will find something with which they disagree. This need not detract from the worthiness of the effort. I am satisfied that it reflects accurately what took place during the conference, and as such, has much to offer in terms of guidance for the future. In any case, acknowledgement of help does not imply endorsement of the contents or responsibility for error. Deficiencies in format, inaccurate use of the material provided, or errors in judgment are my responsibility.

William F. Sinclair
Office of Native Claims
Vancouver, Canada
July 2, 1985

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Fred Walchli
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Editorial Board in Session

Table of Contents

Opening Session	p. 1
Opening Plenary Session	p. 9
Community-Based Planning and Economic Development (Sub-Theme 1)	p. 29
Business and Corporate Strategies	p. 37
(Sub-Theme 2)	
Fisheries and Aquatic Resources	p. 51
(Sub-Theme 3)	
Claims Settlements (Sub-Theme 4)	p. 65
Forest Resources (Sub-Theme 5)	p. 107
Agricultural and Water Resources	p. 127
(Sub-Theme 6)	
Arts and Crafts (Sub-Theme 7)	p. 151
Tourism and Recreation (Sub-Theme 8)	p. 157
Non-Renewable Resources (Sub-Theme 9)	p. 167
Workshop Report to Conference	p. 189
Conference Synthesis	p. 207
Overall Conference Summary	p. 211
Appendix 1:	p. 221
Conference '84 End Products and Follow-up	
Appendix 2:	p. 223
Conference Program Outline, Program Development Committee and Conference Management	
Appendix 3:	p. 239
List of Registered Delegates	

TOWARDS NATIVE SELF-RELIANCE RENEWAL AND DEVELOPMENT CONFERENCE OPENING SESSION

CONVENOR:

Douglas Gordon
Conference Program Chairman

CHAIRMAN/MODERATOR:

Owen Anderson
Regional Director General,
British Columbia Region,
Department of Indian Affairs and
Northern Development
Vancouver, Canada



Delegates Opening Session

Opening Comments

by

Douglas Gordon
Resource Management Advisor
Department of Indian and Northern Affairs
Vancouver, Canada

Good evening ladies and gentlemen, my name is Doug Gordon. I am the Conference Program Committee Chairman. Before I turn you over to Owen Anderson, Regional Director General, Department of Indian and Northern Affairs in British Columbia, I would like to say a few words on what the Program Committee hoped to accomplish. First, I wish to emphasize that the Program Committee designed the conference to address the interests of three specific groups: the Native community itself, the private sector, and government. This is not a Native conference, but rather a forum which is meant to bring together a whole range of different people, all of whom share a common interest in facilitating Indian self-sufficiency.

The second point, I wish to make is that the Program Committee sees this conference as a mechanism for identifying and assessing what Native development initiatives have worked. You will find that in the workshop sessions, there is a major focus on case histories and demonstration projects that have been successful.

Third, it should be noted that this is a participating conference. A conference where delegates are expected to roll up their sleeves and dig in. We are not looking for a "show and tell" approach, but rather working sessions that will allow delegates to focus on specific areas to both illustrate what and why certain developments have worked, and to provide insight on how best to proceed in future. That is why we have established a workshop format, with emphasis on nine specific sub-themes.

Fourth, it should be kept in mind that the Program Committee is very interested in end products. We hope to prepare proceedings that will provide those interested with information on what takes place over the next three days. I hope to produce a handbook on what has worked. We hope to establish a network of individuals sharing common interests, so that they may exchange information based on personal experience, that will improve the well-being of Native people.

Finally, it is my hope that this will be the first in a series of conferences on Native self-reliance. I, along with my U.S. colleagues, am examining the possibility of having a follow-up conference in the United States in 1986.

With that, I will now turn you over to Dr. Owen Anderson, who will moderate this plenary session and get the conference formally underway.

Welcome to British Columbia

by

Rod Robinson
Vice President
Nishga Tribal Council
New Aiyansh, B.C.,
Canada

The Conference Chairman has emphasized that this is not a Native conference, but rather a gathering of people who are interested in the affairs of Native people. Mr.

Gosnell, who was previously supposed to officially welcome you, cannot make it due to his occupation as a commercial fisherman. However, I am sure he would agree with the thrust of this conference.

As you all know, in British Columbia, a lot of things are happening. Yet, British Columbia is one province where Indians have not yet signed a formal treaty with either British Columbia or Canada. We welcome the opportunity to be part of this conference. We see this as an opportunity to discuss issues that face what the government calls "the Indian Problem." It is a problem to them but to us it is not. We also see this conference as an opportunity to advance some of the views we have regarding the governments in Canada. In addition, we see this as an opportunity to openly discuss some of our problems in the presence of some of our people from the United States. I met a few of these people this afternoon and already have discussed some of the problems we are having on this side of the border. I will be saying more during the conference, and no doubt some of my colleagues, who have been selected to give presentations, will be touching on some of the areas which are of concern to us.

With that then, on behalf of the aboriginal people of British Columbia, I welcome each and every one of you. I hope that this conference will be productive and that everyone will enjoy their stay in Vancouver.

Conference Blessing

by

Simon Baker
Squamish Indian Band
North Vancouver, Canada

Good evening and in my language "welcome." I always enjoy making a few remarks. One remark I always enjoy saying is "I have never seen so many Indians since Custer's last stand." It is a good group here tonight. I was particularly impressed by my colleagues remarks. As you know, as an elder, I have been involved in Indian politics since way back and now I am trying to retire. However, it seems I am only continuing to become more involved.

I would just want to warn Fred Walchli that, as he knows, we Indians have a strong union, today is Sunday, so I will be looking for overtime.

I am certainly happy to see so many friends that I have not seen in years. I have travelled across Canada, and I have joined many of our people in their celebrations. In one particular situation, I had the honour of making Prince Charles an honorary chief.

I am happy to see Mr. Warren Allmand, who was our Minister at one time. Glad to see you, and I promise not to swear at you this time.

With that, I will pray to the Great Spirit to wish all of you success in your deliberations.

Welcome from the Government of Canada

by

Cam Mackie

Federal Coordinator

Native Economic Development Program

Winnipeg, Canada

Ladies and gentlemen, it is with great pleasure I extend a welcome from the Government of Canada, and in particular, the Right Honourable John Turner, the Prime Minister of Canada. It is with both a pleasure and a sense of honour that I accepted the invitation to address you here tonight. It is a pleasure because the theme of this conference is something very close to my heart. It is an honour because of my respect for the way in which aboriginal people have exhibited such dignity and self-reliance over the centuries.

You have chosen a very complex subject, it is fraught with many problems of perception, attitude and politics on all sides. Your decision to entitle the conference "Native Self-Reliance: Renewal and Development" was an important and useful choice. It captures both the historical reality, and present day trend of Canada's aboriginal people. Historically, of course, aboriginal people were amongst the most self-reliant people on earth. And it is essential to know what that means. For many thousands of years North American aboriginal civilization existed on its own, with a complete and dynamic culture.

Its varied economic, and social institutions, value systems, instruments of communication and artistic expression, and style of government, were all controlled by the society that they served. Aboriginal civilization existed in a delicate balance with nature, this made their civilizations self-reliant. This self-reliance was total and integrated. That is the essential point here. There existed at that time, no concept of self-reliance in any partial sense. Political, social, and economic self-reliance, worked as one system driving cultural survival and development. This view, this concept for living, has been rekindled among aboriginals today. Our role is nothing less than a total commitment to ensure that it continues to burn brightly and long.

European settlement and expansion, was rooted in the concepts of subduing nature and exploitation. This is exactly the opposite to the aboriginal principle of balance, and harmony. These two cultural imperatives were incompatible, and the result was the erosion of the means of survival for aboriginal people. During the next four hundred years, subsequent to the arrival of Europeans, aboriginal people exhibited constant cultural stress. Not only was their economic base removed, but their values, languages, and social institutions all suffered from the onslaught. The fact that aboriginal culture has survived is truly a testament to their strength, depth and ability to change in a hostile, harsh environment.

Throughout this exposure to European culture, aboriginal people have resisted assimilation, they continued to believe in themselves as a people, with a right to chart their own destiny. They are absolutely certain of their ability to achieve success in regaining self-reliance. Their culture has had to adapt to many changes in the course of the ages, and the presence of foreign civilization in their home land, is but the latest of the many challenges they had to face.

I believe, that aboriginal people will succeed in acquir-

ing the necessary tools to make sure they continue developing their unique culture. Signs of this progress are all around us. The growth in new and dynamic institutions at the national and regional levels is a clear indication that cultural and economic opportunities are being mobilized to take charge in the future. There is growing aboriginal control over the delivery of social and other programs. The return of aboriginal languages and traditions indicates cultural confidence. The growth of economic institutions owned, managed, and directed by aboriginal people, represents a great leap forward towards self-reliance. A further indicator is the growing acceptance by non-Natives of key aboriginal cultural assets, such as the need to live in harmony with nature. It is essential to recognize that these developments are not random, unconnected and isolated events. Social, political and economic self-reliance will continue to grow together, with one element motivating the other.

I am privileged to be part of this process. My personal focus is in the realm of aboriginal economic self-reliance through the Native Economic Development Program. The Program embodies economic self-reliance both in objective and in methodology. Its operation is overseen by a Native controlled advisory board. The board designs and approves the elements of the Program, and is responsible for recommending how they will be implemented and what specific investments will be made. The mission of the Program is to provide the resources necessary to develop essential economic tools which will promote self-reliance. Our focus is on four types of activities which do the following:

- (1) Further and enhance economic and financial institutions under aboriginal control, in order to develop the entrepreneurial capabilities of aboriginal people.
- (2) Design measures which will allow aboriginal communities to begin a process toward self-sufficiency.
- (3) Direct financial assistance to special projects, which have a major positive impact on aboriginal economic self-reliance. For example, we invest in scholarship programs, special training, product innovation, marketing and high priority community-based projects and enterprises.
- (4) Improve the access of aboriginal people to the various economic assistance levers which exist within the federal system.

Each one of us who is interested and involved in Native issues has a special responsibility to ask ourselves whether what we are doing is really having a positive impact on the goal of Native self-reliance. All of our actions must be measured against this objective. It is all too easy for people committed to a worthy cause to believe that our commitment and hard work is enough. Aboriginal people are changing the terms of the relationship with non-Natives. They will no longer accept good intentions or a paternalistic approach. They are demanding that the relationship be based on mutual respect, trust, honesty, and a genuine sense that our relationship should enrich the spirit of both cultures. This is something we must work for together, not out of a sense of guilt, but because it is our responsibility to allow individuals or groups to live in dignity, equality, and with the hope for a better future. That is what determines our level of civilization.

There are hopeful signs that non-Natives are willing to change in response to growing Native self-reliance. The Berger inquiry into the MacKenzie Valley pipeline, the land claims process, the Penner Report and the constitu-

tional process, all are milestones which dramatize that non-Natives are beginning to listen to the legitimate aspirations of aboriginal people of this land. Non-Natives have begun to realize that their historic role has been counter productive and that the best way to help is to invest in the kind of changes necessary for aboriginal people to take charge of their own lives.

Part of the change required is for the general population to have more complete information about what is going on. It is particularly important for people, knowledgeable about the complex history of the aboriginal experience in Canada, to improve the understanding of these issues among the public.

I would like to conclude by reiterating my appreciation for the honour of addressing you today. Your conference is clearly on the cutting edge of an issue which is beginning to shape this country's future. I am certain that these deliberations will make an essential, and positive, contribution to this course of action in the days ahead.

Welcome from the United States Government

by

Sidney Mills
Director of Trust Responsibility
Bureau of Indian Affairs
Washington, D.C.

It is a pleasure for me to be here tonight. On behalf of our Assistant Secretary, I extend greetings to all participants in this symposium. North American Indian tribes will soon directly benefit from this discussion, and the discussions you will be having throughout this next week. I hope that in two years from now we do host the next conference of this kind, in our country.

I would like to start by saying contrary to some people's beliefs, Indians have good attitudes so far as the education of our people. The Bureau of Indian Affairs has been working on trying to get our young people into the field of resource development to develop a curriculum that sets standards for Native young people to enter these fields. I would like to just touch base on some issues that we have experienced. We have had some successes in resource development, but we find that these successes must be repeated time and time again. This symposium, I think, offers us that opportunity.

In our country, because I and my superiors, stand as trustees, charged with the responsibility for assisting our Indian people, and making decisions on the development of their resources, we must be mindful of whatever Indians ultimately choose to do with their resources. The choice must be that of their own choosing. Freedom of choice is perhaps the foremost standard, which northern Americans cherish in the mapping of their future. I think we believe in this standard, because we believe it is the basis for success in the modern world. Consequently, if we protect and defend the Indian people's freedom of choice, we are in fact protecting the rights of all our citizens.

Freedom of choice has led the vast majority of our people in America to pursue taking over programs, and developing those programs, through the strengthening of their tribal governments. We continue to emphasize responsibility and accountability in tribal governments. Tribes across our country, as most of you are probably

aware, are not equally blessed with resources or opportunities. Reservations are often isolated, far from markets, and tribal members sometimes lack expertise and training. Obvious also, is the fact that what may be good for one tribe is not good for another. We feel that each tribe must discover and develop business activities which are compatible with its desired path of economic development and with the resources they have at their disposal.

We also have found when working with tribes, that the tribes themselves will advise us that tribal governments must focus attention on the environment. That is the environment required to stimulate development on Indian reservations. And we found that tribal governments must begin to establish the kind of business environment needed to encourage business through appropriate tribal laws and regulations. The business environment on reservations must have stability. This again is something that we must pursue. This is something the Bureau of Indian Affairs ought to ensure is done. I am confident that you here today have an open mind, and have the necessary respect to understand and believe that the tribes can plan to promote economic and business developments.

We have found that each tribe must decide on its own, and for itself, what is envisioned as economic progress or development. We have been told by tribes that the essence, as well as the promise and burden of tribal self-determination, is self-government. Self-determination only becomes meaningful and fulfills its promise when it is self-inspired. It is through responsive self-government that the host aspirations of the tribal members are cultivated, and articulated. It is through responsible self-government, that those hopes and aspirations are given a chance to be fulfilled.

I would like to close by saying that, notwithstanding the enormous potential for the development of Indian resources in the United States, our federal resources, by comparison, are quite small. However, they are not insignificant. Their significance lies in the modest, but meaningful things that can be done with taxpayers' dollars. By counselling tribes and working with them to develop those resources to be more effective and to strengthen tribal needs.

Most of you are probably aware of our present Indian policy issued in 1982. It reflects the determination of our government to challenge and inspire our Indian leaders. It was not intended to give quick and easy Federal Government solutions to our Indian problems, and I would like to read a quote here if I may, and I am sure Assistant Secretary Smith would not object to my quoting his thoughts on the subject of President Reagan's Indian policy. That is: "That policy statement acknowledged 100 years of failure of the Federal Government to solve the problems of our Indian people." With that I thank you for your attention. It has been my pleasure speaking with you tonight, and I hope to meet most of you during the next few days.

Developing Under-Developed Economies a Perspective

by

George McRobie
Schumacher Institute
London, England

Schumacher and a group of us started what we call the intermediate technology group in London, in 1965. The reasons for starting the group were fairly obvious. Most of us had been working overseas, and had seen that the aid and development provided by "rich" industrialized countries, was in fact, by-passing a great majority of people in poor countries. By concentrating the aid provided to a few areas, the industrialized countries were loading up the developing countries debts, so much so, that they had no possibility of repaying. The strange thing today is that one of the institutions that we used to believe was extremely conservative — and many still feel that way — the International Monetary Fund (IMF) has become one of the most important agencies for social revolt in developing countries. The IMF, in dealing with developing nations, tries to change economic policies so that those countries receiving outside support are not merely paying for the purchase of largescale hardware provided by rich countries, that is of limited value to developing nations. Large-scale hardware merely imposes oppressive debt on developing nations, without giving benefit to the poor. The evidence of the need to change this is provided by the growing economic dependence of developing nations on the rich nations.

If you were to ask why outside assistance has resulted in developing nations becoming economically dependent, in the most crushing kind of way, I would argue, that we do not have to look very far to find the answer. For a very long time now we have been transferring rich countries' technology to poor countries. We have treated the problems experienced by poor nations, as if we merely had to transfer the technology of rich countries to poor countries to solve the problem. I can tell you that this is not so. Transfer alone will not transform poor countries to rich countries. Among other reasons, it is because the technologies, the way we produce goods and services, are based on the requirements of the rich countries and not on the needs of the poor countries. These technologies were developed by rich, white men — not poor men, not coloured men, but rich, white men.

These technologies were supported, until quite recently, by cheap energy. These two things, that formed the whole structure of our societies in the west, also formed the basis for providing assistance to developing nations. It has been inappropriate, in a sense oppressive, and it has not worked. But I think, that meetings such as this, serve as an indication, we are going to change the approach.

What has been happening in poor countries, also has been happening in poor areas of rich countries. It was only a few years ago that we were invited by a group of people in Newfoundland, who agreed that they needed a different type of technology. They argued that if they were to survive and develop in their own way, they have to have technologies which: (1) they could control, (2) were consistent with their own values, and (3) that were based on local raw materials. It was only in this way that they could build their own economic development. This did not happen in Newfoundland. It is interesting to note, that they are com-

ing back to this subject again, twenty years later.

If we look at the characteristics of western technology, I think that it illuminates the fact that it is simply not applicable to small and rural development. First, its main attribute is that it is usually large. An example is the mega-projects which we go into. Second, it is usually very complex. Only a relatively few people can become engaged in making the equipment required to implement such technology. Third, it requires substantial capital and a great deal of energy. Fourth, it is singularly violent towards people, and the environment. Violent in the sense that this technology has been deliberately designed over a period of 100 years, to teach people skills then discard them. This is a logical conclusion of technology that regards people as a factor of production so that they are a cost. What do you do with a cost? You eliminate it, if possible. At least you certainly reduce it. What we have then, is a system that eliminates the human factor, a system which is violent towards the environment. I do not think that I need elaborate on what I mean by violence to the environment, in a country with acid rain, disposable waste problems, and growing greenhouse effect of hydrocarbon fuels.

What has to be done is to develop technologies with just the opposite characteristics to those now implicit in western technologies to facilitate development in poor countries, or poorer sections of rich countries. Technologies that are simple, small and can fit into local communities. Technologies that can be controlled locally, and which depend on skills available within the region or area where development is deemed appropriate. It should be capital and energy saving, and it should be nonviolent towards people.

There are at least twenty groups in different parts of the world who are working on the appropriate small-scale, rural technology. We find them in Africa, Asia, the Caribbean, and the far east. There are several groups in industrialized countries which are now beginning to get some miniscule support from the government for their work. Our own Institute is involved with an excellent group in Washington called "Appropriate Technology International." There are several others in France, Germany, and in Athens. Their experience has shown, that beyond a shadow of a doubt, it is possible to produce and adapt technology to people's needs. This can be done right across the board in the areas of food, clothing, shelter, water supplies, medicine, and the like. I should add, that in almost every case, when we did take, for example, and miniaturize it, we were told that it was technologically and economically out of the question and quite impossible. However, this is changing and it will continue to change so that ultimately our efforts in poor areas will result in real improvements.

Native Self-Reliance

by

George Watts
Chairman of the
Nuu-chah-nulth Tribal Council
Port Alberni, Canada

Doug Gordon, who opened the conference here tonight, used a new word that I think says something about how times change. I have been involved in Indian politics since 1958. For those of you who cannot count, that makes me 30 years old. When I first started attending these meetings involving Indian government, we used to have what we referred to as coordinators. Then later there was the word facilitators. Now today, I heard the word synthesizers. All I can say is that I hope we have good synthesizers tomorrow.

Somebody used the word private sector. I really do not understand some of these words. I always thought that we all are in the private sector, and every once in a while we go public. The point I am making is that it is often the way we toss words around which causes problems. What we are talking about today is "self-reliance," and we have to be concerned with what that means. Do we understand one another? The words we use often reflect our attitude, and I hope that we are careful about the words we use and the attitudes that the words used might reflect during the discussions that take place over the next few days.

In conferences like this we should be concerned with trying to find ways for things to be changed for an improved future. We have to discard what has gone wrong in the past. Part of that, is to start to believe in our hearts that unless western society changes its attitudes, Indian people are never going to become self-reliant again. I think, as an Indian person, my people live with that. It is not that we have no hope for the future, because we have a lot of hope for the future. What we have to rid ourselves of is, past feelings of not only how we relate to aboriginal people, but to all the people in the world.

I have been to many conferences like this. I always get the same standard questions. Questions like: "Are you guys going to kick us off our land?" "Are you going to send us all back to Europe?" "Are you a socialist or a communist?" "Why are you guys not talking our language?" "Don't you know that you have to talk English, if things are to be done?" I think about these questions and I think of why things are not done. Things are not done because everybody in western civilization thinks they are right. What happens is that we end up with all that righteousness. What is right for them is what is right for us. Unfortunately, that is not true. People want to be themselves. Indian people have no choice. We will always be Native people. We will always be the aboriginal people of North America. That is where we started. We are never going to change, so the only change that can take place is for the people who came from Europe to change. The people who moved to North America, the people born to those who moved to North America, have to change. If they change their thinking about us as people, then things might happen.

When you attend your sessions tomorrow, do not think about your prejudices. Do not think of your political system, because these things do not apply. What you will be talking about is not capitalism, it is not socialism, it is not communism. What you will be talking about is "India-

nism." How we are going to survive as Indian people. How we will flourish as Indian people, like we did before. Like many other groups in the world want to flourish. I do not think the price for this is very high. If we can get beyond talking about real estate, or in banking terms, the price will not be that high for us to have a rightful place in our own country.

We have to have a rightful share of resources, and the control necessary to manage these resources. I have been going to meetings for many, many years. I went to meetings with my dad, and before that with my grandfather. We have been going to meetings ever since white men landed in our country. We have been talking about how we as people, are going to survive. I do not think it is an accident that at everyone of those meetings we talked about resources. Our culture, our names, our dances, everything about our life is based on resources. Whether we are talking about the food we eat, the houses we build on our own, without government handouts, resources are at the heart of our being. Why then should we not want to gain back control of our resources? That is one of the things that is going to be brought up during the land claims discussions.

I think when we talk about land claims, we are not talking about settlements in the north, or settlements in British Columbia, where we have no treaties, or settlements elsewhere. What we are talking about is treaties right across the country. When we talk about land claims it is different than what you read in newspapers. Just a little bit different. It is not what we want you to give us. You cannot give us anything. In fact, you do not have enough to take care of yourself. You could never pay for this country if you think of it purely in terms of real estate. Tell me where you would get the money? Where would you get the money to pay for North America? As a business deal you cannot afford it. Besides, there would be too many Indians in Hawaii when it was all over. So let us abandon the concept that it is a real estate deal, and that you are going to give us something. What we are talking about, when we talk about land claims, is that we are going to give you something. We are going to share our country with you.

We cannot turn the clock back. We cannot ship 25 million of you back. There is a reality and that is part of the reality. What we have to talk about is getting it back. It would be nice, if just once in your life, you admitted that we are the natural people of the Continent. Despite our Premier telling us that we came from Mongolia, or wherever. I do not know the latest theory. The fact remains, as the oldtimers use to tell me, if you dig down six inches you find cow bones. If you dig down twelve feet you find clam shells, because that is what Indian people ate hundreds of years before they ate beef. That should tell you something. Why are non-Indian people so intent on proving that we do not come from here? Do we go over to Europe and try to prove that you guys are not from over there? You were there. You were there in different forms. You know, you moved around and had a few wars with each other, but you are from over there, just like we are from here. So if you will accept that, and allow that to enter your computer and your mind, then maybe, we can start talking on a fair basis.

Somebody mentioned it here tonight, and I thought it was a fantastic thing he said, "no you cannot come from a sense of guilt." Guilt does not do anything. All the good intentions in the world do not do a thing. It may be a good basis, perhaps a place to start, but it does not do anything.

What is to be done, is to deal with us as people, without any quilt. You find yourself in a society that now is having serious problems. I think there are many reasons for these problems, some of which, our other guest speaker mentioned. The energy crisis: the attitudes of people who are making money. I think we all have to do some rethinking about this world and where it is going. Maybe this would also be the right time to do some rethinking about Native people. And one of those issues I mentioned before are the resources. It does not matter what meeting we go to, what we talk about, we end up back in the same spot. And that is, we need more control, more resources in this country, and we must develop them in a way which benefits us, the way that we want. We do not want to be kept in a state of dependency. We want off the welfare role. Dependency is not acceptable to us. It has never been acceptable to us as people. No one ever asked us if we wanted dependency.

There is a way to get out of it; there is a way to get out of it. And that is through "Indianism." I do not think that is such a difficult concept. That you allow us people to do what they want to do for ourselves. To permit us to exist as people. I do not know how other Indian people think in this country. I was given a philosophy by my father and it is about this country, we call Canada. He asked "What would have happened if the Americans beat the Canadians?" The border would have been moved up and you and I would have been American Indians. So are we really Indians? Indians are a grouping of all of these people. But we are different. We are different people all across this whole, whole, whole, vast Continent. You see that guy over there, he is a Nishga. The Nishga talk a totally different language from my people. The people that live 50 miles from us, north or south, talk a different language. We have certain things in common, but we are people. We are autonomous people. What is desired here in Canada and the United States is to have two true countries. That will never hap-

pen until Indian people have been given the right deal. That is one of sharing the Indian people's country. Then you will have countries. Right now, it might hurt some people's ears, but what you have is just another form of colonialism. Just because it is a very, very small minority of the population does not rid you of the word colonials. We live in a colonialistic society. And with all due respect to Dr. Anderson, the government, the government itself is one of the biggest agents of it. Because they keep a hand down on our heads. They make sure that we never, ever rise, and when we do, they try and grab you and pull you into their system. To change you, to reward you, not to say that you are right because you are an Indian. What they do is they try to pull you down into the system.

The thinking from my standpoint, and I think Mr. Allmand will recognize what I am about to say, is that the government itself is going to have to change its attitude. You cannot solve anything by just giving Indians money, or looking after the Indians. There is only one way to look after Indians, the aboriginal people in this Continent, and that is to let them look after themselves. The only way that we are going to be able to do that is to have a proper land base. Allow us to have the right to our languages, and our culture, to our lives. To let us have the education systems, that we want. It is not going to be easy. A lot more has to be done. We have to acquire skills, train our young, and so on. But you pay lawyers and consultants a hell of a lot of money. Just like the situation in Alaska, the money spent usually benefits somebody else, not the Indian people.

In my opinion then, tomorrow in the discussions, we have to meet on common ground. We have to work together to make the best of this country. It would seem that this is an opportune time to make progress, because not only are Indian people suffering, a lot of others are as well. The answer to all of this is what we have been saying for a long time. Let us do it for ourselves.

CONFERENCE OPENING PLENARY SESSION

CHAIRMAN/MODERATOR:

Peter Clark
Resource Management Advisor
Department of Indian Affairs and
Northern Development,
Vancouver, Canada

FORMAT:

This plenary session is comprised of two parts. First, there were the Canadian speakers who provided perspectives on the Canadian Indian Self-Government Report. Second, there were the United States presentations which gave perspectives on the United States Presidential Commission on Indian Reservation Economies.



Left to Right: Neil Sterritt, Warren Allmand, Marty Dunn

Parliamentary Task Force on Indian Self-Government

by

Warren Allmand
Member of Parliament
Notre-Dame-de-Grace
Montreal, Canada

I am indeed pleased to be with you, and take a breather from the election campaign. This is probably the toughest campaign that I have ever been involved with. So it is good to be out here with you, to deal with some issues that are very dear to my heart. Unfortunately, these issues are not being raised often enough in the national or local campaigns.

For those who are not familiar with the Task Force on Indian Self-Government, this Parliamentary Task Force was made up of seven members of Parliament from the House of Commons (MPs): four from the governing Liberal party, two from the opposition Conservatives, and one from the opposition New Democratic Party. However, a precedent was set in that, there were three individuals who were not members of parliament (or not elected officials) who were added to the Task Force. These individuals were appointed at the request of the Committee. One of the three was from the Assembly of First Nations (AFN). Another was from the National Association of Chiefs. The third one was from the Native Women's Association of Canada. This was the first time that such an approach has ever been taken in the Canadian parliamentary system. The first time that a parliamentary committee had three non-elected people participating in committee on a full-time basis, asking questions, sharing in debates, with their researchers involved in the work.

The Task Force was set up in August of 1982, and reported on October 20, 1983, with 58 recommendations. Significant is the fact that all 58 recommendations were the unanimous decision of the Committee. This is quite important. It is really something to get MPs from three different political parties, representing all parts of the country, to agree unanimously on 58 recommendations that are of such importance. The origin of this Task Force, and study, is also important because this study originated with the Indian people of Canada and not with the government or parliamentarians. The National Indian Brotherhood (which preceded the Assembly of First Nations), has made numerous requests to the government and to the Standing Committee on Indian and Northern Affairs¹ since 1980, to study the relationship between the Canadian Government and the Indian people, determine how they might proceed to Indian self-government, and to re-examine financial relationships. Having received these requests on several occasions from the National Indian Brotherhood, we on the Standing Committee made a report to Parliament asking for a special reference to study Indian self-government. We did that in the spring of 1982. The government agreed and set up the reference. What is also significant is that, not only did this originate with the Indian people, but the terms of reference for the Task Force was drafted bilaterally by the AFN and MPs from a House of Commons Committee. It was not something that came from government, because too many things in-

volving Indians over the years, have originated with government.

The terms of reference provided for an examination of the possibility of establishing Indian self-government, changing financial relationships between government and the mechanisms for accountability to Indian membership. In all of this it should be remembered that this was a study of Indian self-government in Canada. That means that a little over 300,000 status Indians were not included. The Métis, which number about 700,000 were not included, nor would it apply to Inuit. We must take for granted that once the principles were accepted by government for status Indians, they would be applied to the Inuit and the Métis as well. In addition, there was a lot of discussion about broadening the memberships in the Indian nations to bring back some of the non-status people, who have lost their status because of the rules of parliament — The Indian Act.

You might ask, why did the Indians request this study; why did we finally proceed with it? The answer lies in the fact that the Department of Indian Affairs has been in place for over 100 years in Canada. The Indian Act has been legislated since 1876. The Department of Indian and Northern Affairs provides services which amounted to approximately \$1.6 billion in 1982/83. This expenditure of \$1.6 billion does not include the five other departments such as Health and Welfare, Secretary of State or the like, all provide services for Natives. Despite all of this, we have got a situation where the Indian people were better off before contact than they are today. Before contact Indian people were self-sustaining, and independent people. Therefore, despite all the money spent, the more than 100 years of Indian Affairs, we have a dependent, and in many cases, impoverished Indian population. Just to give a few statistics from a 1980 government report: Life expectancy for Indian people of Canada is ten years less than it is for non-Indians. Infant mortality is 60 percent higher among Indians than it is nationally. Unemployment rates range from 35 to 90 percent on some reserves. Income, is two-thirds that of the national average. In 1977 less than 40 percent of Indian people had running water, sewage disposal, or indoor plumbing. Nineteen percent had two or more families living in one non-reserve home. One of our prominent national chiefs in addressing the Task Force said that the current federal policies were operating to reinforce Indian poverty and dependence, rather than promoting self-sufficiency and self-determination. More important, the system is a colonialist system, the Indian Act is a mechanism for social control, and assimilation. The Act does not give recognition to the fact that Indian Nations were self-sufficient, and independent on this Continent for thousands of years before the white man came. Indians never, never, gave up their independence or transferred any of their sovereignty to the Canadian Government.

The method used by the Parliamentary Task Force was to travel to all parts of the country visiting Indian reserves, meeting with bands, and talking with tribal councils. We also met with the provincial and regional associations. In all, we had over 60 public meetings, which involved 567 witnesses and 215 oral presentations. We tried, as often as we could, to meet on the reserves. When we did not meet on reserves, we met in friendship centres or other Indian institutional settings.

In addition to the oral testimony, we also had a large number of written briefs. There were four particularly

¹ Like all the six other Members of Parliament on the Task Force, I am a member of the Standing Committee on Indian and Northern Affairs.

important research studies, which are all available to the public. We also went to Washington, D.C. to meet with U.S. authorities and with the leading U.S. Indian associations. We went to New Mexico to examine some of the things they are doing in that State. In other words, we made every attempt through this long process, to find out what the Indian people in Canada, wanted in terms of self-government.

With respect to recommendations, there were 28. I do not want to read them for you, but it is hard to improve on the way they were worded, because we spent a lot of time drafting these recommendations. I will summarize the important ones. First, of course, we recommended that we recognize Indian self-government. Not that we grant Indian self-government, but that we recognize that it exists, and it has existed for a long time.

We also recommended that there should be no single model for Indian self-government, because as it was pointed out last night, in this country there are many, many Native people. The form of government, chosen by one group, might not be appropriate for another. We did not recommend any one model. It was our view that Indian people should be able to choose their own model, and each should have its place within this new system. We also recommended that there should be a recognition of the right to self-government, and that this right should not be viewed as devolution of authority from the Canadian Government to the Indian people. It should be a recognition of what Indians had in the past, and what they should still have. We also went further and recommended that this recognition of Indian self-government be entrenched in the Constitution. That is extremely important, because if you simply legislate it and do not entrench it, it can be easily changed and fiddled around with by succeeding governments. In addition, if it is not entrenched, it will not take precedent over all other legislation. So by entrenching it, it cannot be easily changed. A constitutional amendment would be required to change the recognition of Indian self-government. We also recommended that the process undertaken should be bilaterally equal between the Canadian Government, the provincial governments and the Indian people of Canada. We further recommended that, until we get agreement from the provinces to entrench in the Constitution, that the Federal Government go ahead with legislation necessary to recognize Indian self-government. We recommended that these governments have all the powers necessary to deal with Indian people, but this also should be negotiated.

Recommendation 26 indicated that a strong economic base was essential for Indian self-government. Of course, also, that Indian self-government is necessary to have a strong economy. We recommended that Indian nations must have the power and means to develop strong economic bases. Therefore, in recommendation 24, we said they had to have adequate land and resource base; that there must be a quick settlement of the outstanding claims to generate the necessary funding. We criticized the present method of funding and recommended new direct, assured, and long-term funding. An approach similar to the one the Federal Government has with the provinces. Under the existing method used with the provinces, we provide block grants which includes five year proposals for funding. We recommended a similar approach for the Indian nations, so that they can set their own priorities, on a long-term basis.

We also recommended that Indians have full control

over their land, and resources. This should be entrenched in the Constitution, so that those lands can never be expropriated by any means, and would be protected forever. We recommended a new policy for settling claims, both specific claims and comprehensive claims. It was indicated that this new policy for claim settlement should be decided bilaterally. It was our view that claims settlement should be put into legislation, and not be maintained as it is at present, as simply a policy of the government of the day. We recommended the removal of the concept of extinguishment, which is currently present in the claims settlement policy.

Finally, we recommended that the Department of Indian Affairs be phased out over a five year period. We were not dogmatic on this, because some Indian nations said that they needed time to take on the role of independent Indian self-government, others said they did not need time, they were ready to do it right now. So we recommended a phasing out of the Department and the phasing in of a new system.

There have been two national aboriginal rights conferences with the first ministers of Canada. At the last one in 1984, the Government of Canada made certain proposals to entrench Indian self-government after bilateral negotiations with the Indian people of Canada. That was an important step. However, the proposals that were made were not as good as we would like. Unfortunately, as inadequate as those proposals were for entrenching Indian self-government, they only got the support of three of the provinces. For a Constitutional Amendment we need seven provinces. So following that 1984 Conference, the government introduced Bill C52, which would legislate Indian self-government at the federal level. The Bill was introduced for first reading near the end of June, just before the dissolution of Parliament for the election. It was not debated and was never sent to committee. Again, the Bill was not exactly what our Task Force recommended, but I felt it was an important step forward. It was the first time in Canada that we had the government putting forward legislation for Indian self-government. It is my own belief that once the Bill got to committee, the Standing Committee on Indian and Northern Affairs, would improve upon it. It is my hope that this will take place next fall, once the election is over.

In conclusion, the Task Force is primarily concerned now with the implementation of that Report to make Indian self-government a reality, and to entrench it in the Constitution. Therefore, we have to follow two tracks, one track for constitutional entrenchment, which involves the provinces. The other track is good legislation at the federal level. But in no way can any legislation be imposed on the Indian people of Canada. Even in good faith, or with the best of intentions, the whole has to be a bilateral process. We will require patience and hard work, but I want to tell you there will be no going back to the way things were before. The only way is to go forward to Indian self-government. I think one day we will see that in this Country.

Development Dilemmas: Constitutional or Conceptual

by

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Before proceeding with my prepared remarks, I would like to pass on the best wishes of the Native Council of Canada. It is hoped that what is learned as a result of the discussion that takes place at this conference will contribute to the real world process.

The present stage of constitutional discussions between the Native and non-Native people of Canada constitute, to my mind, a crossroads. That, I suppose is a cliché, but let us examine the analogy a little more carefully. Perhaps we thereby, can move from cliché to something of more substance.

Before doing so, however, I want to make a disclaimer. I will want to talk about some of the dilemmas that we, Native and non-Native, are faced with. In so doing I will be making reference, in general terms, to religious, cultural, spiritual, and the philosophical dimensions of the processes of "development" and the attainment of "self-reliance" as they relate to each other in this, the late 21st century. Before doing that I want to beg the forbearance of our spiritual leaders. In so doing, I can only say that I do not present myself as a religious, spiritual or cultural spokesperson, guardian, or even expert. I speak only as an individual, proud of my Native roots, deeply inspired by the spiritual wisdom and insight, that is part of those roots, that culture, that world view. I present myself, therefore, as a layman: a layman profoundly moved by our rich traditions, the potential in the present circumstances for the renewal of that tradition. However, I am also painfully aware of the potential for disaster.

To return to the analogy. One of the obvious attributes of a crossroads is that it is a meeting place. A meeting place of, if nothing else, at least two travel routes with different origins. The constitutional discussions, thus, are a meeting place for two cultures. The exciting part of it is that the process represents at least the potential for an end to long established patterns of paternalism; there is hope that one cultural stream, long dislocated, will now at last be allowed, once again, the freedom to define its own prerogatives, its own imperatives, its own state of welfare. To the extent these potentials are realized, we are at the end of an era.

There are other attributes of a crossroads. Perhaps, just as obvious, but less thought about. As much as having different origins, the routes also have different terminal points. They also have different histories; one may be flat, the other steep. There are also at least four turns which might be taken. This of course, implies a choice point, and once more, if two or more vehicles arrive at the same time,

2 I must take the opportunity to clarify the meaning of terms like "Dene" or "Anishnabi" or "Inuit." These are usually rendered in translation as "the people" or similar fashion, with all the conceptual baggage of the translator's culture which leads to a vision of the users of the terms so defining themselves as to render other human beings as being somehow less deserving of the term "people." In fact the terms from other elements of existence such as rocks and trees and seals. The terms, in their proper context and sense, do not have devastatingly ethnocentric meaning given in the usual translation.

there must be some degree of mutuality in the decision-making and in the execution of the decisions. Of course, in case of a real crossroad, there are laws and/or customs which govern and thereby assist in avoiding chaos. In the case of our conceptual crossroads involving the meeting and further development of two people that degree of convention may not pertain. It is at this point we get beyond analogy, metaphor, and cliché.

The two (or more) people attending this conference have different cultures, values, histories, ways of making sense, and of relating to the world around us. Historically, the conflicts implied by this have been handled by the imposition of one set of values. In other words, by the exercise of power, usually to the great detriment of the weaker power. The challenge now is to discover new modes of interaction. Modes which, if we are wise, might enrich and liberate us both.

The world view and cultural imperatives of the industrial state are such that the planet we live on is seen as a supply dump for elements to which industrial technological techniques can be applied to transform them into useful products. In the process potential wealth is also transmuted into monetary wealth. It is this world view that provided the energy and the engine for the historical phenomenon now referred to as "the expansion of Europe" and it is this view, which continues to motivate the industrial states of the world, even as we move into the post-industrial era. It is legitimized in the Biblical injunction to "go forth and multiply and subdue the earth." There is, I realize, some controversy surrounding the latter part of that quote, but I think it is safe to say that for some hundreds of years the interpretation of the basic precepts of the spiritual roots of the culture, which developed industrialism into the work-a-day realities has included that component, at least by implication. I might also say that the injunction and its implications appear to have been accepted by the great political "isms" that have caused so much strife in the world. In this world view, humanity is organized in a way, which according to other assumptions, do not violate the basic injunctions that are seen to best serve the production and distributions of goods and wealth.

At the risk of oversimplification, I think it is safe to say that the world is now organized according to the precepts I have just outlined. And it is in that context which we tend to think of "development" and "self-reliance." It is this fact which gives rise to a basic dilemma in the realm of Native development and Native self-reliance. For in the Native tradition there is another world view, one that sees the relationship of the elements of nature quite differently.

In this view, man or "people," is the generic meaning of terms such as "Dene" or "Anishnabi." This term used by two of many people, refers to the fact that they view themselves, as one element in a Great Circle of Creation, in partnership with all other elements, both animate and inanimate. The place of man is much more humble, if you will, in that the methods of survival must be essentially harmonious with the balance of nature. The bounty of Creation must be shared by all, and preserved for future generations of creation in respect for an unknowable origination of the Creator².

The pursuits which rendered survival possible were themselves celebrations of the Creator, of creation and of our place within it. Perhaps one of the most striking and

beautiful illustrations of this is found in video material, produced by the Ontario Métis and non-status Indian Association a few years ago, showing the wild rice harvest in northwestern Ontario. In these films one is drawn into the rhythm of the harvest: it is a rhythm akin to dance; a rhythm which anticipates the rhythm of dance used to celebrate spirituality on formal occasions. I will turn to the rice harvest to illustrate a further point or two a little further on in my remarks.

Perhaps it can be seen now where conflict might arise in the context of development and self-renewal. Essentially the problem is twofold: 1) the term development is defined and constrained by the imperatives of the industrialized state; 2) for Native people, with different imperatives, the challenge is to find a path to development, which respects our proud traditions of spirituality and our world view.

Here I will raise the first direct questions that I think must be dealt with. Does a move toward "Native self-reliance" require that these rich traditions make further accommodations? Is development in the context of 1984 and beyond assimilable under traditional values? What potential is there for the enrichment to the dominant culture in the insights and wisdoms of the Native tradition? I will not try to answer these questions directly, but urge you all to take a sense of the dimensions involved into your activities during the remaining days of this conference. Hopefully, you can even take that sense back home with you.

Before closing my remarks, I want to come back a level or two of abstraction and try to connect all this with some concrete examples, and to issue a challenge. Some years ago there was a federal task force examining the issues impacting on Métis and non-status Indian economic development. As part of this, several task force members, one of whom was Native, were discussing philosophical issues similar to the ones I have presented. The discussion finally focused on the question: "if we were to create the conditions now which would allow a Native person to reach the highest level of corporate power in a way which allowed that person to retain 'Nativity', what would it mean in practical terms?"

One answer put forward by the Native participant was that it would mean at least the challenging of assumptions which allow for almost unthinking acceptance of pollution and poisoning of ecosystems. The debate broke down when one other member noted that in reaching those heights, the question would lose its importance to the Native person. I think a point was missed.

A further example has to do with the rice harvest. In northwestern Ontario, and probably elsewhere, there is great controversy over both the control and the process of the harvest. With respect to process, there is great pressure on Native people to mechanize, to rationalize, their methods. No doubt there is great advantage to be gained by this. But there is much to be lost. For in the long tradition of the people, the rice harvest is as much a cultural and spiritual celebration of the bounty of creation as it is an economic pursuit. By what process and by what criteria do we choose between, that which is to be gained, and that which is to be lost? Again, I will not try to answer the question in any direct way.

All this reminds me of a story. It seems that there was a meeting of a local Alcoholics Anonymous Group at which a guest lecturer was expounding eloquently on the many dangers of alcohol. To illustrate the physical dangers he

presented a glass of alcohol, then proceeded to drop a worm into it. The worm disintegrated. "What," the lecturer asked his audience, "does that demonstrate?" After a restless silence, a new member of the group spoke up. "If you drink alcohol, you will never have worms," he ventured. Again, I think a point was missed. That person was not prepared yet to expand the constraints of familiar patterns of thinking. In fact he was probably looking for excuses to continue thinking and acting in familiar ways. It seems to me that this is the challenge of the theme of this conference. The crossroad is here. We must somehow develop new modes of relating and of thinking, that will allow maximization of the realization of the potential of our decisions, and avoid chaos and tragedy. The constitutional developments might remove some existing barriers. However, only we can remove the constraints of our thinking, and the actions which follow from that thinking.

An Indian Perspective On the Canadian Indian Self-Government Report

by

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The conference theme, toward self-reliance, renewal and development, is most interesting, and I hope during my presentation to somehow elaborate a bit on that concept. While addressing the Penner Report on Indian Self-Government, I want to offer some observations and expectations that we have with respect to that Report. These observations will be mainly from a tribal group, in northwestern British Columbia point of view. So I will give you a little background about the people that I represent. Hopefully in this way, I will give some insight into what our people feel in other parts of Canada. Warren Allmand mentioned in his presentation that a constant thread, or theme, ran through the presentations made in front of the Parliamentary Task Force, wherever they went, and that this was reflected in their final report. I suspect that much of what I have to say will also reflect the views of a great many in other locations in Canada.

There was a Federal-Provincial Commission that travelled around the Province of British Columbia, between 1912 and 1913. It was called the McKenna-McBride Commission. This Commission had a very colonial approach. The objective was to redefine the Indian reserves that had been set aside by the government for Indian people of the province. It was clear from the very outset that the expectations of the commission were different from those of the people. Wherever the commissioners went in their travels, the people made presentations that said what they wanted was to talk about their land and not about reserves. What was said, at that time? At the time when our people were self-reliant, when our people were independent, when we had our own economics, when we were doing so very well and had a tremendous degree of self worth, the Indian people said:

You are newcomers to this land. We know this land and we know that there are more people coming. We know that times are going to change. What we want is to define our relationship with the rest of Canada.

That is what we wanted at that time and that is what we want today.

What is wanted is recognition that we held title to Canada, and we held title to British Columbia. It is not much different for the Nishga to the north of us, or other bands to the south, east, and west of us. What I am saying is very important in terms of how we view the Penner Report. Because to us, the Penner Report represents another opportunity to define our relationship with the rest of Canada. We want to define this relationship on equal terms.

I represent the Gitskan Wet'suwet'en Tribal Council. The Carrier are a very large linguistic group. The Wet'suwet'en are the part, as President of the Tribal Council, that I represent. We are located on the upper Skeena River. We have a land claim of approximately 30,000 square miles. We have 7,000 members, which includes about 4,500 status Indian people. There is extremely high unemployment among my people. It ranges between 65 and 95 percent. The area for the whole of the population would be about twenty percent (including the non-Indians). Our people have three times the unemployment of the general population. The welfare rate is high, and naturally, we have the social problems that normally accompanies such a high rate of chronic unemployment.

The Government of Canada now has a policy of trying to resolve comprehensive and specific claims. Comprehensive claims cover all those issues that are related to defining our relationship with Canada, which are based on Indian land title and historical relationships with Canada, which are based on Indian land title and historical relationships. Specific claims deal with issues that relate to damage caused by railroad construction and the like. So at this point in time, we have a constitutional process, a land claims program and we have the court cases. Court cases are going on all the time. My people are being charged continually for what is perceived as being against the law. We are being charged because of activities that are part of our lives. We have the right, and the responsibility, to take game, to take fish, to do the same things until such time as our relationship is defined. Until such time as we understand where we fit.

In the new Canadian Constitution, under Section 35, it says the right of aboriginal people of Canada are hereby affirmed. But what are they? We have on the one hand, the court cases which are supposed to clarify rights and title, and on the other hand, a major constitutional effort that may fundamentally change past court decisions. We have the Indian Government Report, which provides another forum to change things in Canada. So here we have four fronts, which are, in many ways, contradictory. Each is being done in isolation from the other. What is the bottom line? The bottom line is a fundamental question of what the Government of Canada is prepared to do in recognizing the historical reality of the aboriginal people of Canada. That is really what the Penner Report is all about.

Our tribal group went to Prince Rupert to meet the Penner Committee. There was initial skepticism on our part. We viewed the process as merely an opportunity to educate them and to give them a perspective on our historical dilemma. What we were trying to do, as the Gitskan

Wet'suwet'en had been trying to do since about 1975, is to define the problem. What determines the essence of what has happened since 1913, when our people were self-reliant, and today when we are not? What are the events that have taken place internally and those imposed on us externally? The legislation, the policies that have been implemented that prevent us from hunting, fishing, and that separate our families. We have spent a lot of time dwelling on that problem. We always felt that at some point in time both the Indian and non-Indian people would come together to define solutions. So when the Penner hearings were held we were more or less ready. We had our act together.

What happened is that we revised our expectations during the hearings. The makeup of the Committee was such that we had people like Warren Allmand, who was obviously very serious. We also had people like Frank Oberle, who was from northeastern British Columbia, and was not the type of person we thought would be concerned about aboriginal people and their problems. Once this group of people started, and were exposed to tribal groups, councils, aboriginal people right across the country, it became obvious that Mr. Oberle was changing his perceptions of aboriginal people, as a result of the process. That gave us considerable hope. It raised our expectations that the educational process I referred to, could be broadened so that it might give other people an appreciation of the work to be done to solve the problems and establish self-reliance among aboriginal people.

Our expectations also began to rise because we were able to tie all of these processes together. We could see that we were not only educating people in the concept of Indian government, but in constitutional requirements, land claims issues, and even the courts. Another factor was that the Minister of Indian Affairs, John Munro, was supportive of the things we were trying to do in the Assembly of First Nations. We had hope that through use of this we might form a distinct kind of government in Canada, with defined jurisdictions. We might somehow, at some point in time, reject or phase out the Indian Act. We might obtain recognition of our right to our land and resources. We might change our accountability, from an accountability to the Minister of Indian Affairs, to an accountability to our own people. We felt that perhaps the extinguishment policy of government at least would be discussed because we have to define our future relationship with Canada. This could be done without extinguishing aboriginal title. We felt that the land claims process could be revised and accelerated, and we felt that the very important membership could be addressed.

Rather than give you my comments on Bill C52, I want to offer the comments of Roberta Jamieson, who was an exofficial member of the Penner Committee. She came to our annual Assembly in Montreal and addressed the group because of this concern about Bill C52. I will not read everything she said, but I will read parts of it. Lawyer Roberta Jamieson is a member of the 6th Nation, who travelled across Canada with the Parliamentary Committee on Indian Self-Government. She called the resulting proposed legislation "deceptive" in her report to the 5th Annual Assembly of First Nations. Bill C52 does not even fulfill the description of the Department of Indian Affairs and Northern Development, she wrote in a letter. "You, the Chiefs and the people of the First Nations, demanded and the Parliamentary Task Force agreed, that First Nations have a right to be self-governing people." "You said

that Canada has an obligation to recognize and support First Nations' government, in a government-to-government relationship." "You called for a just settlement of the claims settlement for access to resources and development of First Nations' economy, for jurisdiction over first Nations' lands, people and interests." Both you and the Task Force demanded a new regime of fiscal arrangements with Canada, which would support First Nations' governments. "Unfortunately," Jamieson continued, "the Bill, which according to former Prime Minister Trudeau was developed under his personal supervision, does none of these things." Jamieson says that "the language of Bill C52 is deceptive, the Bill does not come through with the substance, and she urged the Chiefs to seek further opinion before making any decisions." There is a much more detailed analysis, but that is sufficient to give you a sense of the kinds of changes we need. So I think that if we go back to our original expectations, that education is what we needed, and that is what is happening here. If we assume that people like Warren Allmand and Frank Oberle are talking to other people and saying, "Look, you know that these people do have a case, they do have something that they can contribute to Canada, there can be benefits to Canada from this future relationship that we will develop." Then I think I agree with what Roberta Jamieson is saying. Bill C52 is suspect, it does not go anywhere near doing what it is supposed to.

In conclusion, I would like to say that what we are talking about is power. If the Government of Canada did the things we wanted, then there would be a change in power. Power would be given to aboriginal people. They are not prepared to do that. You are not going to get that through a negotiating process. At this point in any relationship we have with Canada, through the Department of Fisheries and Oceans, Department of Indian Affairs in band councils, we are agents. A band council is the agent for Canada. That is not what aboriginal people want. We have to continue to seek constitutional reform, we have to continue fighting for our land claims, we have to continue educating, and we have to continue going to court to try to force the changes that we want. In terms of the theme of the conference, you would wonder what we are capable of. I want to tell you what we are capable of. Roughly ten years ago, the James Bay hydroelectric development commenced. At that time, there was really no development for the aboriginal people, in that area, in the modern sense. They were trappers and hunters. They had their philosophy, their culture and their values. They had their own political system and their land tenure system. But they spoke their own language. The Europeans spoke theirs. What we had as a result was a gulf. A twenty or 22 year old man, named Billy Diamond, decided to do something about it. He went home and turned that whole James Bay development around. They ended up with an agreement, which we could comment on today, but we do not have to. The point of the matter is, I personally have worked with presidents of senior corporations in New York, in Denver, in Winnipeg, in Toronto, and in Vancouver and I have gotten to know these men very well. I have also gotten to know Billy Diamond very well as a friend. Billy Diamond with his values, his culture, and his background, is the equal to any corporate executive that I have ever met anywhere. Billy Diamond had characteristics, that were developed through his traditional system, through the teachings of his elders and his parents in the James Bay area. He has all of those qualities that are needed to make the tran-

sition from our traditional culture, to the corporate culture of today. I am not saying that wherever there is self worth, wherever there is independence and pride, we can make the transition. We are capable of doing anything that any other group is capable of doing in the world. We just need the time to sit down and define our values, rather than having them pushed down our throats. There are possibilities. I think that the Indian government Report presents an opportunity, because it provides a dialogue and exchange. I welcome the opportunity to talk about this important government report and to discuss self-determination over the next few days. It gives us another opportunity to talk to others about our values, our aspirations, and where we want to go.

Self-Government in Perspective

by

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I would like to begin my remarks today with a quote from Dr. Lloyd Barber, the former Commissioner of Indian Claims. Dr. Barber, when referring to the Indian Self-Government Report, said:

I hope that we are psychologically prepared for this challenge, it has come upon us rather suddenly, and tends to shape the basis on which we have always thought of our relationship with Native people. But suppose we tend to react like somebody who has been standing on the other fellow's toes for so long that we are indignant when he wants to pull his foot out. I hope we can overcome this for his sake and for ours.

I concur wholeheartedly, Native self-reliance is indeed a challenge. It will take considerable selling and a large measure of understanding among all those concerned, but we must continue to move in that direction for our own benefit. It is for this very reason that I am pleased to be here today. Perhaps with these discussions we can move a little closer toward our goal of self-esteem, self-fulfillment.

For my part, I will focus on certain business implications in the Canadian Indian Self-Government Report. I will leave the sovereignty issue to the politicians. I want to make it clear from the outset that I neither hold, nor aspire to any political office. I feel that it is appropriate as a result of the current Canadian elections, to make that statement. From the standpoint of business and economic development, for Native people, there are a number of stumbling blocks. I want to touch on just a few of these before commenting on the Report itself. First, the Federal Government has ignored the special relationship that treaties imply. A treaty is, by definition, a formal agreement between two or more nations or governments. The government's interpretation and implementation of treaties has failed to recognize this distinction and this has worked against Indians gaining greater control over their lives and livelihood. Of course, the Indian Act is another serious obstacle to development. It has effectively assured Federal Government involvement in all aspects of Indian life. There are a number of problems associated with the Act and one of

the most damaging is the degree of control it gives the government over the use of land and resources — Indian lands and resources. Indian initiatives cannot proceed without the approval of the Minister of Indian Affairs and Northern Development. In my view, this process is not only outdated but archaic. It certainly is not conducive to economic growth. The nature of the federal bureaucracy also works against economic and social progress agreements. In one sense, employees of Indian Affairs and other departments are charged with the task of assisting band governments to encourage economic activity. But in reality they are responsible to government which has demonstrated little or no faith in Indian people. As a result, the development of Indian business has been very slow indeed. The final stumbling block, that I would like to mention, is the priority that social programs receive over economic and business ventures. When times get tough, the first cuts are the economic programs needed for self-sufficiency. Social programs that assure dependence on government are retained. I think we should be looking at some balance in this area. Indian self-government would certainly help to eliminate these obstacles.

The recommendations of the Special Parliamentary Committee represents a step in that direction. The Report itself is comprehensive and reasonably complete. So much so, in fact, that it is not fully appreciated by the general public, as I know it is not among the other Indian band members across Canada. I will get into some of the feelers in a minute or two, but first I would like to review some of the positive aspects of the Canadian Indian Self-Government Report. If Indian self-government is to work, there has to be sufficient funding for band government to operate effectively. In this regard, I have brought forth the recommendation to look at resource sharing and certain changes to fiscal arrangements. I agree totally with the need to move rapidly with the settlement of land entitlement issues and other land claims. I also support the conclusion that Indian bands should have full rights to control their own lands and resources. This would provide Indian people with greater power to plan and allocate resources. This would be a positive step toward the removal of dependency. I also concur that the legislative authority necessary for Indian governments to establish corporations, to establish and implement bylaws as they see fit, can be beneficial. In creating a new and economic environment, we must always be conscious of the existing social problems and the impact that these changes will have. The majority of our people are currently living from day to day. In many cases, however, they are just surviving. Any move from dependency to new economic self-sufficiency will create a healthier living environment and attitude. We do not have to look any further than the West Vancouver Indian band here in B.C.

There is fear that band governments may abuse their new powers. However, if the scope of the power was entrenched in the band constitution, along with the Indian government's accountability to the people, there should not be a great problem. Perhaps, anything is better than the present situation. The paternalistic attitude of Federal Government officials is another issue. Many of the bureaucrats, for one reason or another, feel that Indians could not possibly manage their own affairs. There also are many people who are concerned about the third level of government emerging. This is particularly true among those who feel another level of government would be equated to their own.

From the Indian viewpoint, there are those who feel that bad government would be replaced by worse government. Such fears are natural. I think that negotiations, followed by clarification of jurisdictional powers and accountability, within the Canadian Constitution, should reduce these risks to an acceptable level. Among Indian entrepreneurs there are some fear that Indian self-government will suffocate their business development through taxation, excessive regulation, or even operating a mode of dictatorial powers. However, I believe a much healthier economic environment will emerge to the benefit of all Native people, including those operating businesses. Among the population of Canada there may be a general fear of the economic power that Indian bands will have if they attain the control of their lands and resources. After all, this new power could be used to lobby for or against an incumbent government, without the fear of possible repercussions (that exist under the present system). Indians have the right to the same privileges afforded other individuals and interest groups in this country.

Before concluding my remarks this morning, I would like to quickly comment on a few economic principles, that I think warrant some attention from a business perspective. First, the Report recognized that most successful initiatives are those developed at the community level. This is a strong argument for self-government. Second, there is a need to enhance band government effectiveness in assisting individual entrepreneurs through the elimination of tariffs on goods and services exchanged between Indian bands in Canada and the United States. Third, I agree with the need to continue certain grants or incentives for Indian bands under the system of self-government. There are tax incentives applied generally that would not be of any benefit to Indians. I think it is only fair that these be replaced by cash grants. Finally, I believe that we should initiate our own financial institutions on a shareholder basis, and in this way we can generate jobs and incomes for the Indian population, while encouraging greater understanding of some of the unique problems that we face.

In conclusion, I support and agree with the concept of self-government for Canadian Indians. I think it will have a very positive impact on attitudes and aspirations of our people, while at the same time, encouraging much needed economic growth. I think that self-government will generate a progressive change in the fiscal situation of Indian bands across the country, and I am confident that the Indian businesses will receive a definite boost. There is no question in my mind that the reduction in the Federal Government's involvement in the affairs of Indians will be a definite plus. I strongly concur with Indian governments in Canada that the concept of self-government, along with the jurisdictional powers and accountability to the Indian people, should be firmly entrenched in our Canadian Constitution. Having said all that, however, I also recognize that self-government represents a monumental task. At best it will create an environment in which Indians can more effectively deal with their social and economic problems in a positive manner. Do not be misled, however, self-government will not, and I repeat, will not in itself make those problems disappear. Indian leaders will have to recognize this fact, and be particularly sensitive to the concerns of their people. A great deal of patience and understanding will be required to make the necessary adjustments in our thinking so that we will eventually become self-reliant. To borrow a line from Dr. Lloyd Barber's com-

ments, mentioned in the beginning of my presentation:

I hope that we are psychologically prepared for this challenge. Self-government is indeed a challenge, but more importantly, it is an exciting opportunity for all Indian people.

Native People as a Distinct and Independent People

by

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My initial training is that of a journalist, and by that training, I eventually became the Assistant Land Claims Director, Research Director, with the Ontario Métis and non-Status Indian Association. Later I became involved with publishing a series of "special addition" magazines in an attempt to communicate the implications of land claim settlements. Today, I am with the Native Council of Canada. I do have a prepared statement, but the statement was prepared without quite knowing the atmosphere or the range of people I would be talking to. I hope you will raise any questions during the discussions following the presentations.

If you can believe the rhetoric of the past few years, it seems Canada's original — or aboriginal — people are the luckiest indigenous population in the modern world. Indian, Inuit, and Métis people have, with much ballyhoo, now been recognized in the highest law of the land, the Constitution of Canada. The country's federal and provincial leaders are staging annual First Ministers Conferences (FMC) with aboriginal leaders, to identify and define the rights of aboriginal people in the Constitution, presumably, by 1987. Land claims agreements, with benefits in the millions of dollars, are being negotiated across the north. The historic cultural mores of Indian and Inuit are being celebrated on national television. There is even some talk of pardoning Louis Riel. What more could aboriginal people ask of non-Native Canadians?

The sad fact is, nothing has really changed. Certainly constitutional recognition is a giant step forward, even if it was a century overdue. Under the glare of television lights the First Ministers mouth public platitudes while their respective bureaucracies foster conflicts among aboriginal groups and attempt to impose restrictions on identity and narrow "existing" rights to meaningless welfare programs. While federal and provincial politicians profess ignorance of the meaning of aboriginal title, their officials and negotiators insist that extinguishment of that title be a fixed condition of land claims agreements.

Some Métis groups have opposed the pardoning of Riel on the ground that he did nothing that requires pardon, and particularly while his hair and mocassins are still presented as war trophies next to Nazi insignias in the showcases of Toronto's Casa Loma.

As the representative of the largest number of aboriginal people in Canada, the Native Council is monitoring the most recent developments in the constitutional area with mounting alarm. It is becoming increasingly obvious that government declarations at the conferences are more

interested in basic costs than in basic aboriginal human rights. Recent federal attempts to legislate solutions in the area of sexual equality and self-government have exposed the federal game plan for what it is, a bureaucratic shuffle to restrict recognition of rights in favour of the narrow application of benefits to a small, high profile group, or groups of aboriginal people. Even in that context the results are pretty meagre.

At best, Bill C-47, which pretends to eliminate sexual inequality from the Indian Act, will open the doors for, at federal estimates, 66,000 Indian people. Considering there are more than 100 times that number who will still be excluded from the Act, the Bill is obviously a band-aid remedy. Bill C-52 does not even pretend to offer solutions for any, but the 300,000 status Indians currently organized into bands under the Act. Although it should be noted, that it does hold out the carrot of forming new bands. But as a response to the legitimate demands of Indian people for self-government, it is just a pitiful caricature, that simply shifts control over Indian people from the Minister of Indian Affairs to the Federal Cabinet. Only from the most self-serving and biased of non-Native perspectives could any of these initiatives be seen as moving significantly "Toward Native Self-Reliance: Renewal and Development."

I have been deliberately negative for the past few minutes because I think it is critically important that we all understand how much work must be done before the theme of this conference can even hope to achieve realistic expression. We have had several hundred years of experience with the effects of paternalistic welfare programs fostered by the oldest bureaucracy in North America. We know that it does not work. We have had more than a century of suffering under government assimilationist policies and, thanks to the courage and resilience of our people, these policies have at last been exposed for the cruelly racist purpose they have always served. And now, as Ron Shortt has said, we are at a crossroads. On the surface at least, it would appear that North Americans are ready to shed their colonialist policies, and that is an absolutely essential first step. It even seems likely that Amer-Indian perspectives of relationship to mother earth are gaining ground on the rapist mentality of resource exploitation. That is a critical consideration in both renewal and development. Finally, on a political level, the First Ministers Conferences have established at least a degree of viability as an arena in which views can be aired and exchanged.

From a Native point of view, a parallel set of circumstances has developed in the Native community. The long predicted rebirth of aboriginal values and their manifestation in both Native and non-Native lives are being experienced on an unprecedented scale. The viability and cohesiveness of many Native cultures, particularly the matriarchies, are surfacing on a blatantly political level. As individuals, as communities, as collectivities, as bands, as tribes, and as aboriginal people, the Native people of North America are asserting their rights to exist as a distinct people, with a distinct world view, within the context of the North American Continent. As prophesized centuries before white man imposed himself on North America, warriors of the rainbow are coming into their own.

So the two paths, indigenous and immigrant, originating from various sources and perhaps terminating in different places, reach this crossroads. If I may, I would like

to alter that image of crossing paths to the image of a window in the space-tech sense of the word. The patriation of the Constitution of Canada, in effect, has created a cultural window through which two previously estranged worlds are connected. As in Nasa's windows, the time frame in which that contact exists is relatively short, perhaps only a few years. It may be another century or two before a similar window is created, so it is essential we take advantage of the opportunity we have before us.

You might well be led to think otherwise by some of the things I have just said, but I am personally convinced that a very real opportunity to establish what you have called "Native self-reliance" really does exist in the constitutional forum. Certainly there are those who consider it their fiscal duty to whittle away at the process until it is absorbed by the system. But it is the responsibility of organizations like the Native Council of Canada to see that they do not get away with it. The First Minister's Conference is a window, and a golden opportunity, to firmly establish aboriginal aspirations in the legal framework of Canada.

One of the things that the FMC process has taught me personally is that negotiation is very often a process by which two groups discover they are using the same words to mean different things. Hopefully, they arrive at a mutually satisfactory accommodation by virtue of arriving at a common meaning for those words. In terms of your work here this week, and certainly in terms of our work with the constitutional process over the next few years, I think that idea is worth serious consideration. For example, does the word "Native" in the theme of this conference refer only to status Indians in Canada? Or does it include all of the people who identify themselves as Indians, including so-called non-status Indians? Does it include only Métis or Red River, or does it embrace all of those people of aboriginal ancestry in Canada who identify as Métis? Does it also include the Inuit? If the word, as it is used here, does not include all of those people on an equal basis, then you are using the word "Native" very differently from how the Native Council of Canada uses the same word. You would definitely have a fight on your hands when you tried to exclude any person of aboriginal descent, or anyone who identifies with whatever aboriginal heritage.

It is relatively obvious that different people could group a variety of sins under the term "Self-Reliance." For many, I am sure, it would have a primary application to economic self-support, and a secondary implication for the reduction of welfare costs. Still others would see it as a banner under which dependency on federal programs could be eliminated, and special status be provided. There must be at least a few idealists in the audience, springing up out of the wasteland of the reservation system to create a kind of ethnic suburbia. But no matter how the term "Self-Reliance" is defined for the purposes of this conference, it will be meaningless unless it is established from an aboriginal perspective.

I am sure most of the people in this room have good intentions. But Francis Bond Head had nothing but good intention when he proposed that Indians be saved from the settlers by segregating them on Manitoulin Island. Missionaries had the holiest of intentions when they brought smallpox to the Hurons. And the Fathers of Confederation, bless their biracial hearts, looked eagerly to the day when Native people would be absorbed into the British Empire as Canadians. I think we can agree that good intentions are not enough.

In concluding my comments here, I hope I can communicate to you something of a Native perspective of the term "Self-Reliance." During the last few years of First Ministers Conferences I have heard, for the first time in one room, the many voices of the aboriginal people of Canada. From coast to coast and from the Arctic Circle to the mythical American border, many persons, often speaking in tongues I did not understand, came desperate with hope, to present their case. But somehow the diversity and multiplicity resonated with a rhythm, a common purpose with many parallel themes. The message, I realized suddenly, was as simple as it has always been. We want to be free. That thought is at the very heart of every major presentation made by Native people at the conference table. Surely to be self-reliant is to be free. That includes the freedom from unilateral imposition, and the freedom to accept the responsibility that comes with making mistakes. What is aboriginal title, but the freedom to be our own selves as a distinct people in our own land with a birthright to access and share the resources of that land? What is self-government but the freedom to choose the forms and mechanisms by which we relate to each other and to others in Canada, and to suffer the consequences if those choices are not apt?

For reasons far too numerous and complex to explore here, Canada's aboriginal people have been denied, by legislation and by policy, by prejudice and by ignorance, by intent and by indifference, the basic human rights necessary to a state of freedom. The aboriginal people of Canada see the Constitutional Conference as a vehicle to re-establish and renew aboriginal human rights and to recreate that state of freedom which is our ancient birthright. That is the only possible basis for a realistic self-reliance. If the conferences are ultimately successful, the eventual entrenchment of aboriginal rights, and the rights of aboriginal people, will be a firm basis on which aboriginal self-reliance will be built. If they fail, if the window closes before mutual understanding is confirmed, then the opportunity to mutually establish that basis may be lost for another generation or more.

But make no mistake, renewal and development is taking place among the aboriginal people of North America, with or without the cooperation of others. Do not delude yourself into thinking that what you do here may somehow give us freedom. We are already free. We have always been free in our hearts. But you can decide to make way for the expression of that freedom. No constitution on earth can confer on us the heritage that is ours by birthright, but it can legally recognize that which has always existed. All the planners in the world will not create self-reliance for Native people, but you can plan ways to avoid interfering. The aboriginal people of North America may not appear to be self-reliant in terms of "Reaganomics," or corporate policy, or government programs and services. But those theories, policies, and programs exist on the historic foundation of the dispossession of aboriginal people from their natural resources. The self-reliance of aboriginal people, like the Rocky Mountains, is rooted in the geophysical consciousness of North America itself, and any renewal must take that overriding reality into account. The self-reliance of aboriginal people expresses itself in sharing, not in ownership: In cooperation, not in competition: In consensus, not in majority rule: In harvesting, not in exploitation: In adaptation, not in domination. Any development must be based on these aboriginal values, or must fail, as they have failed in the past.

With or without the Constitution: with or without the Federal Government: with or without the good intentions of non-Native Canadians, the aboriginal people of Canada will, through renewal of aboriginal values and the expression of Native self-reliance, claim a rightful future for themselves on this Continent. You can cooperate with this process, or you can oppose it, but you cannot stop it. The warriors of the rainbow are among you. The destiny of North America is unfolding as the ancients said it would. The aboriginal people of Canada are taking their rightful place in that destiny. The real question then, you each must answer for yourselves is: Will you? If you cannot answer that question, then you must make way for those who can.

An Overview of the Presidential Commission on Indian Reservation Economies

by

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I bring you greetings from the Presidential Commission on Indian Reservation Economies of the United States and also the Cherokee Nation of Oklahoma. It is terrible coming to a conference program like this and hearing the ultimate speech which has just been made from the Canadian delegation. I am in no way prepared to compete with those comments. I would, however, suggest that most of the comments could be echoed about the Indian situation throughout the United States. In fact, it is amazing to me to sit here and listen, because the similarities are so great. In fact, there were several expressions used that I, and others like me, have stated to members of Congress in the past. Certainly there is no greater effort being made anywhere, than is being made in Canada, to secure the rights and the freedoms of the Natives. I wish we had Members of Congress, as you have Members of Parliament like Warren Allmand, who can speak so eloquently about these problems. I know he is very sincere in what he is attempting to do, and I wish him and all of you much luck.

What I would like to do in the brief time allotted to me is give you an overview of what the Presidential Commission on Indian Reservation Economies has been doing for the past year. This is an unusual Commission. I say that, because I do not believe that any other effort has ever been made by Native American in the United States to study the problems of their economies — Native economic development — as it is being done by this Commission. That is not to say that studies have not been undertaken in the past. In fact, our Commission, the methodology we have used to try to determine the problems and obstacles, as well as the solutions to these obstacles, have been addressed in four tracks. The first one was recognizing that, in fact, there has been a great deal written about economic development. That literature would probably go half way

to the ceiling if it were stacked in this room. Obviously there are a lot of things that we might be repetitive about what we could say, because it has all been said before. The first thing that we wanted to do is attempt to avoid repetition except where it is applicable and to study the literature. We did, on one track, take several hundred volumes of materials that had been written about Indian economic development in the United States. We studied it. We took it apart and tried to come up with the views expressed in these various reports and synthesized it down to sort of a common denominator. Using this process it was hoped that we could use it to weed out the superfluous and keep to the real meat.

The second track was a series of field hearings. My cochairman and I split these field hearings. We each held about eight of them. We held hearings on reservations and in cities close to the reservations to try to gather as much information from the tribes, and from businesses that had participated with the tribes, as was possible. These hearings went on for approximately six months. They usually lasted for two or three days at a time. To my knowledge, this is one of the first times that a major effort has been made to be sure that everyone had the opportunity to give advice and ideas to a commission such as this.

Another track was in what we call private sector development. We actually arranged to have the business plans of various tribes examined. We keyed in on about five tribes, that we hoped were representative from the largest and the smallest of the tribes throughout the country, both on and off reservations. We looked at the business plans that they had from some of the businesses they were proposing. We used what we call a private sector team to undertake this work. The team was made up of a venture capitalist and others familiar with business development in both rural and urban areas of America. They examined such things as what happens in rural America as opposed to urban America. Their job was to look at what was going on in economic development and determine how the tribes might be assisted.

This led to some very interesting results. On the one hand, it confirmed some of our original thoughts. On the other hand, it told us that our studies were, in fact, over-emphasizing some things. For example, we found out that there was lots of venture capital. Yet during our hearings we were constantly told that there was no venture capital. What we eventually discovered was that there is lots of venture capital available, but it was difficult for the individual entrepreneur to access. Most venture capital, whether from a federal agency or from a private foundation, is geared to tribal government development.

The fourth track we took was what is called a sage analysis. Sage analysis is an organization which does an analysis based on initial path failure. To explain this, we had a sage group interview about 600 people who deal primarily with the federal bureaucracy. All of these people were people charged with fostering and encouraging economic development in Indian country. The approach used was to confirm the interviewer's responsibility with respect to specific duties, and then enquire why this or that could not be done, because it obviously was not being done. They had to respond, in some way, by either disclaiming responsibility or giving a reason as to why a particular action was not taken. The responses were interesting, because once again, they both confirmed and refuted some of the things we had previously picked up.

The essence of all this is to point out that by using this

four track approach we were able to confirm, as well as discount, particular items of information to determine what the real, as opposed to perceived, obstacles were. We hope to synthesize these findings, to accurately identify the real obstacles to development. We are hoping to find a common denominator on a set of obstacles. At the same time, we are looking for opportunities that might exist to remove such obstacles.

Initially the Commission took the position that there were economic development programs in Indian country. There were individuals running successful businesses. There were successful tribal businesses. We took a positive approach, that said "let us go talk to those who are operating successfully." One of the most discouraging things that we discovered was that, what is recognized as successful in Indian country in the United States, are projects that are subsidized by the Federal Government. It was generally found that if a true financial statement was prepared, most of these businesses would not show a profit. There were very few tribal companies that were profitable in the truest sense of the word. Practically none of those owned by individuals, showed a profit.

This discovery raised some serious problems in terms of Indian self-government. It raised a question of what is resulting from self-government. In the United States, we passed an act in 1934, which is currently being revisited 50 years later. The Indian Reorganization Act, which essentially set a pattern for the recognition of Indian tribes and the creation of tribal corporations. This, I think, is one of the basic differences between the Canadian concept of Indian self-government and Indian self-government in the United States. Your (the Canadian) concept of Indian self-government is something that comes from within the Indian nation. It is not something that is dictated by the dominant government. That appears to be one of the problems that we in the United States have experienced over the last 50 years with our Reorganization Act. Essentially, the Reorganization Act allowed Indian tribes to organize in a corporate form with a chairman, a board of directors and the like. That form of organization was not necessarily culturally considerate of the tribes at that particular time. Many were not ready for that form of government, and it has caused problems.

I cannot talk to you today, about the recommendations that will be contained in the report. In fact, I cannot talk to you of specifics in any way, because we have not finished our work. I can give you at least a perspective by the fact that we have completed the data collection, the studies, and assimilated the information. We are almost complete and should have a final draft report prepared by the 1st of November. It probably will not be released until after the election. There is no significance in this except timing, we just cannot physically get the work done before that. What we hope is, that once the report is finished, the responsibility for the recommendations will be fixed with the Office of Management and Budget (OMB). The OMB will be able to monitor the implementation of the recommendations, and insure that they are carried out.

One of the things the Commission has discussed, something which has apparently been discussed in Canada with Department of Indian Affairs and Northern Development (DIAND), is the dissolution of the Bureau of Indian Affairs (BIA). When we sat down and reviewed the volumes of material and problems with the BIA, we wondered how in the world we could put up with such a crazy organization. However, if you start at the beginning and examine

the different problems that have to be addressed, it becomes obvious that there is no way we are going to make that recommendation. At certain times during the studies, all our frustrations reached a point where the problems were too unwieldy to even be addressed. We will have to address these problems through the BIA. Sure it presents a problem, because economic development is foreign to the way of thinking in most government agencies.

Let me run through some of the constraints and opportunities we identified during our deliberations. The opportunities obviously start with federal funding. The BIA has an annual budget of about 1.6 billion dollars for Indian programs. Overall, about 3.2 billion dollars is spent annually on Indian programs in the United States. This includes what is spent on Indian programs by the different agencies on health care, education, and the likes. We found that most of this expenditure is for social needs. The economic development money is directed to the tribes who take the task of establishing industrial parks. Before there were factories, there were hotels and motels. This can be traced through history. It can be seen that the BIA, the Department of Commerce, took the position that the way to make Indians economically self-sufficient was to build motels and hotels on reservations so they could develop tourism. When that did not work, the Economic Development Administration decided that they would establish industrial parks on reservations. The thinking appeared to be, that as soon as water and sewage facilities were built, industry would flock to the industrial parks on reservations. Industry did not come. The next thing was to build some buildings that would entice industry. All of these were done in a vacuum by Washington, with little obvious positive effect in terms of creating economic development. Certainly a few people did well during the construction, but overall, the effort was a failure.

About twenty percent of all the natural resources in the United States is on or near Indian land. That includes energy resources such as gas, coal, uranium and the like. There are fewer than 750,000 Indians living on reservations. Yet these reservations control roughly twenty percent of the energy resources of the United States. However, the development of these resources has been left to the whims of government bureaucrats over the years. There is not consistent policy, which would allow Indian tribes to develop, or even negotiate, contracts. It was, only during this past year, that with the passage of the Melcher Bill, some Indian tribes are allowed to negotiate their own agreements. Previously, Indian tribes could only lease land through, and subject to, the approval of BIA. Moreover, there were not a lot of things written into these agreements. Things like Indian employment, special tax advantages, and other similar concessions were often omitted.

By far the greatest resource we have as Indians, is our people. One of our great chiefs said in a speech almost nine years ago, that we are in danger of losing America's greatest natural resource, the American Indian. Entrepreneurship is an important part of economic development. It obviously also is an important part of self-reliance. One of the greatest mistakes made in economic development is for government (any government, including Indian government) to attempt economic development. Governments are to provide services for people, they are not to put people in business. Businesses are developed as a result of entrepreneurs, people who have an idea, who have an ability to operate a business. Businesses pay taxes to government, to support government pro-

grams. A natural course of things is for individuals to start businesses through their own courage and personal initiative. Reservations have to make their lands conducive to the kind of development that can be established by an individual Indian. We have to encourage, rather than stifle individual entrepreneurship. Tribal supported business development can, and often does, result in stifling individual business initiative.

Self-help projects do work. We have proven this in the Cherokee Nation. We have used federal dollars in a way that has been of great resource to our people. Not a resource used to simply build a water project, construct a sewage line, or build a house, but to motivate people to do for themselves what they should have been doing all along. As a people, we have allowed ourselves to become dependent on the Federal Government. At most of the Commission's hearings, those making submissions indicated that they required more federal money. With more than three billion dollars of federal money now going to Indian programs, it is our contention that Indian people should be able to do more than what they are doing to stimulate Indian development. However, we have to be prepared to take responsibility for this development. Self-determination, self-reliance means getting involved in developing our future by ourselves and for ourselves, and not through some form of government.

With respect to the constraints that the Commission identified, it is obvious the federal administration of funds often denies the Indian the opportunity to become self-reliant. It denies Indians the right to become an entrepreneur; it denies him the right to build his own home; it does not allow him to put in a sewage line, or a water line. It is too much trouble for bureaucrats to understand, that we could build our own water line. They prefer to hire a contractor to come onto the reservation to do our work for us and then turn on the tap. What is not understood is that when an Indian pays his bill he does not know what the line cost is if he does not build the line. He is suddenly faced with a water bill for a line that he may not have needed or wanted. He may have had a good producing well, that did not cost him very much in the first place. But because he was told he was poor, that he needed a guaranteed source of water, the right kind of house or whatever, he is stuck with an expensive service that makes him worse, not better off.

The fact is that government inspired development does not work in Indian country. To be self-sufficient and self-reliant, the Indian person must decide, within the context of tribal and cultural goals, where and how he wants to live. This is not to imply that you have to be poor to be an Indian. It does mean that you have a right to decide your own quality of life, your own standard of living. Lack of trained managers and entrepreneurs, location, and other such impediments, obviously cause problems. Indian tribes have been placed in some of the remotest areas in the United States. Access to capital is a problem. Sure there is capital out there, but try and access it. Because of the bureaucracy, and their many constraints, it is extremely difficult to acquire capital. If you look at advice, we get lots of it. I may be stepping on toes, but the good-old-boy network of consultants often works against us. We have seen consultant studies that would not stand the light of day. Many of these studies are done without field references on marketing. They say build a plant, hire 200 people, make a particular product, sell and make a profit. Nowhere in the report does it indicate who is going to buy

the product that will be produced. People build motels and expect tourists to beat a path to their door. It simply does not happen.

The non-Native that comes onto a reservation, and attempts to do business, finds himself subject to a set of laws that are completely different than before he came onto the reservation. The same problem exists when the Indian person walks off the reservation. He finds himself in a completely new world. We have to do something. We have to do something that brings commonality into the system. If Indian tribes are to own their court system, civil and criminal jurisdiction, they have to adopt commercial codes so that those people working with Indian tribes can understand the rules, and benefit as a result. That, essentially, is the work of the Presidential Commission.

A Comment on the Presidential Commission's Study and Findings

by

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Without the capacity to control the economic future of our reservations, the Indian tribes of the United States will inevitably remain in the current cycle of disintegration. The First Nations have been providing a tribe alternative model since 1979. We do not accept any federal dollars and we do not borrow out of the large federal program mentioned. Instead, First Nations emerged from a movement within the tribes for economic independence. First Nations operates the only mutual self-help network among the tribes. I think it is because of our unique history as an organization, our direct ties to tribal development, and most importantly because of our tribe's mutual self-help network that we were asked to critique the blue ribbon panel study.

Let me say, like Mr. Swimmer did earlier, we do not know precisely what the study will say. It has not been completed. What I will be going over this morning is what is essentially one portion of the draft. It is not the final draft, but the first set of recommendations that were developed by the blue ribbon panel. These first recommendations will probably set the general thrust of the study. I will read you two pages of these early draft recommendations, and turn the podium over to Rubin Snake and Bob Posner. Rubin Snake sits on First Nation's Board of Directors, and Rubin and I sit on Bob Posner's Board for the Indian Centre for Indian Economic Development. So, I think we share basically the same philosophy towards the study.

I think it is important to read these two pages as an overview, because without this basic knowledge, our critique of the study will not have meaning. It would be a critique out of context. Therefore, out of respect for your time I will cancel my comments and move right along. Reading from the study: "The common criticism of the Federal Government's role in Indian economic development has been the lack of coordination between federal agencies and between programs. This tends to dissipate the impact of the assistance that the programs are de-

Issues of Trust Responsibility and Sovereignty as they Relate to the Presidential Commission Report

by

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signed to render. In general, federal agencies providing assistance to Indians have a poor record in assessing the feasibility of economic development projects and business ventures. They have a poor record in providing the necessary technical assistance to economic development projects." The study then goes on to essentially say that perhaps the most frequently identified criticism of the Federal Government is directed toward the Bureau of Indian Affairs and the problems which result from the role of that agency. These problems stem primarily from the trust status that is maintained between the Federal Government and the Indian tribes. If you like, it is this trust status which seems to underline most of the problems tribes experience in assessing their economic opportunities. Further problems result from the Bureau's handling of the approval process, at least the contract approval process. This is a problem which was frequently identified. Another obstacle which was identified a great number of times, with respect to the Federal Government's role in Indian economic development, is the level of federal funding allocated to finance projects. In other words, the amount of funding allocated to provide technical assistance for projects is often inadequate and poorly conceived.

While the overall major obstacle to Indian economic development is access to capital, it is the trust relationship which is at the root of that problem. The capital obtained from regular commercial banking and financial institutions requires a high degree of "collateralization," due to the trust status of Indian land. It is virtually impossible for tribes to pledge their land as security for large-scale economic development project funding. Thus the burden falls upon the Federal Government to provide that financing. It is safe to say that as long as the Federal Government holds the Indian lands in trust under its current rules, regulations and procedures, the Federal Government will continue to be the primary source of Indian economic development project financing.

Another primary obstacle to Indian economic development is the capacity of the tribes themselves. Problems including, but not limited to a lack of business sophistication, are abundant. A lack of training in management among tribal government officials, an inadequate and unskilled labour force, add to the inability of the tribes to develop a sound, productive economic base. These problems of tribal capacity can be alleviated to a degree by a massive program of training and technical assistance, but improvement will go slowly and deliberately.

The size of reservation work force is a problem to be dealt with. The hard fact is that reservation populations are not growing at a rate which will ensure a large labour force in the future. This is the closing summary paragraph for overview conclusions. Therefore, the report concluded (paraphrased), that tribal sovereignty and the resultant immunity from such, continues to be a major problem. It is a problem that hinders joint ventures and private sector participation in projects.

I think I could actually go into an extensive critique of what I have read, except for the sake of time. I will turn you over to Rubin Snake and Bob Posner.

I have to be particularly careful in my remarks this morning, because two members of the Board are participating on this panel with me. Please bear in mind that I am looking to both my left and right when I am speaking.

Let me first start by saying that the issue of trust and sovereign community is a vital issue affecting the Native Americans in both the United States and Canada. The issue is not one that is unique to the Commission and its findings. The one which I think applies to all of you, is the issue of trust. This may not be as significant in the final Commission findings, but it has surfaced, and because it has surfaced it is worth discussing. It is worth discussing now because it reflects an attitude or perspective which I think is damaging and injurious to tribal sovereignty. It also reflects a direction when economic development is confronted with the legal rights, trust rights of sovereignty nations within a larger territory or nation. For those reasons, I would like to spend a few moments trying to relate to the issue of trust, the issue of sovereign unity, to the potential for economic development, and most particularly, on how capital money for economic development, apart from federal or foundation funding, can reach a reservation. I will try to show then that there is a relationship between trust and sovereign unity and the formation of venture capital or business capital on a reservation.

In the United States we have a federal law on bankruptcy. There are two major chapters in this federal law that I think are worth discussing. One of them is Chapter Eleven which permits any business in the United States to voluntarily say that it is unable to pay its bills, that its expenses and obligations far out distance its income or its potential income. We also have a Chapter Nine, which was drafted after New York City teetered on the brink of bankruptcy, which gave local governments some special school districts. One of these school districts was established near San Jose in California. This legislation allows these insituations the right to enter bankruptcy, the right to protect themselves from people and businesses claiming payments on debts and obligations owed them. Tribes do not have that, there is nothing in Chapter Nine, or in Chapter Eleven, which gives these governments, that are sovereign nations within the United States, the opportunity to seek protection. There is nothing which allows them to restructure their debts in a way which would allow them to avoid having the collateral assets claimed by those to whom they owe money. So in effect, by attacking the issue of sovereign immunity and attacking this notion of trust, the people that are attacking it, are also taking away the last batch of safeguards for tribal governments for the loss of their lands. The possession of land, which they fought so hard to regain. That land is now in danger of being lost if that trust is seen as an impediment to tribal development.

Let me carefully explain that in many situations, land ownership is divorced from the ownership of the struc-

tures and the improvement on the land. And for the moment let us use the example of a hotel to illustrate, that the land is under the ownership of one party, and the buildings and improvements on that land are under the ownership of any other party. The second party which wants financing to help cover the cost of construction of this hotel, and its improvements, cannot then claim the ownership of that land as an asset in order to have some collateral for a loan. If a bank is approached for a loan by the developer of this hotel, it will examine the loan on the merits of the business plan itself, the future profitability of the hotel. The ability, of the hotel to pay back whatever indebtedness which is imposed. The bank also will take, as collateral, the land lease, the instrument which was given by the owner of the land to the potential owner of this hotel as collateral. The opportunity to use the surface of the land, in a way they both agree on, has a value. Thus, land leases have collateral value. If you are in a situation where the land is to remain under tribal ownership, you do have, similar to the hotel, an opportunity to use an instrument that the tribe may offer, such as that lease hold, as a collateral. Assuming, of course, that such collateral is required by a lending institution. But in many cases a lending institution would not want to be involved in the business of repossession. Repossession implies that the loan has failed, and once the failure is acknowledged by the bank it must take from its own resources the monies that it would normally use for lending out and gaining profit, and hold that money in reserve to match what the outstanding balance is on the loan in default.

The use of collateral in terms of possession, repossession is really the last, the very last alternative, used by a bank. The bank would rather restructure debt. The bank would rather work out a new way of securing repayment rather than going that one final step.

I think that many American Indians view the using of their land collaterally as being a potential loss. You see it as a potential danger whereby an outsider will take control of something that is yours and should remain yours. The bank will only look at land on a reservation as collateral that can easily be used to recover its loan. It nevertheless, represents a threat to you, because as collateral, the use of that land without the trust security gives an outsider the opportunity to acquire your land. This represents what could be regarded as an invasion of your sovereignty in your own territory.

The reason I am focusing on this is to try to highlight the fact that there are many ways that banks and other lending institutions can advance capital for economic development on a reservation. I say this because: first, there is a great deal of capital available, second, it requires a pretty good business with a fairly predictable rate of profit to acquire capital. If these prerequisites are not met, it does not matter how much collateral you have, because the bank uses collateral only as a last resort. As I previously said, the bank prefers a steady pay back under the agreement that has been worked out to establish the loan.

In closing, all I would like to say is that for the United States and its Commission the issue of trust and sovereignty is a very, very sensitive one. When there is something like this, which the Commission has not covered in its own report, I think it should be brought to your attention. The question of trust is a major item that should be considered when discussing economic development capital on a reservation. It is an issue that goes beyond development to the very nature of tribal and sovereignty

immunity. It is the Commission's responsibility to view not only economic development, but also to give regard to the effects that their proposal for such development will have on the sovereignty of American Native nations.

Thoughts on the Presidential Commission and Life at Home in Nebraska

by

Rubin Snake
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I want to greet you all good morning. According to the convener's remarks this is not a Native conference per se, but a forum for a wide range of interested and involved parties which share an interest in encouraging and facilitating Native self-sufficiency. I am a Native American, and I do have my own way of doing things. Like one of my predecessors, I will stand up here and talk to you. According to the teachings of my people, if you have something worth saying and people are gathered to listen to you, you should stand up on your two feet and say it. Our Sioux relatives, as well as other Sioux-speaking people, they call us the "big voice people." That is what they call my people. I do not need a public address system when I talk.

My brother Ross gave me permission to tear up the Presidential Commission Report on Reservation Economies, but I am not going to do that. I understand what the Commission is. It is a politically appointed body that is attempting to provide direction and leadership for my people. I have tried to review this long-standing relationship that we have with the Government of the United States. A Commission was organized in 1928, that resulted in some very significant legislation in 1934. The legislation that resulted from the work of this early Commission has had a very great impact on our people since 1934. In 1975, once again for political reasons, the United States Congress established another Commission. It was called the American Indian Policy Review Commission. This Commission also resulted in legislation impacting our lives. This has happened before, and it will happen again, therefore I cannot address this Presidential Commission on Reservation Economies until they submit their report to the President and the Executive Branch of the United States. My response to the Report, will depend on how Congress reacts to the views of the Commission's work. I may be cussing them around 1986 or 87. I will not say anything about the Commission, but I will say thank you for extending me an invitation to come up and participate in this gathering. This is about my third time in Canada, and I really enjoy being here.

It says in the program that the conference was designed to address the interests and concerns of three key groups regarding Native self-reliance. These are the Native community, the government and the private sector. Just out of personal curiosity, I would like those from the Native community to raise their hands. All the government officials raise your hands. Now all the private sector representatives. It looks like a good split, we are going to have a good conference with good representation.

I have been the Chairman of my Tribe for seven years

and in 1980 put together the beginnings of a twenty year plan for the self-sufficiency and economic independence of the Winnebago Tribe of Nebraska. I have been involved within my own community and within the Native community on a national level. As you heard, two of my employees are here. I am the Chairman of the Board of Directors for the Indian Economic Development Centre based in Oakland, California, and the vice-Chairman of the First Nations' Financial Project based in Falmouth, Virginia. This is the first opportunity I have had to see my two employees for a long time so I want to say thank you for giving me the opportunity to see them face to face. I am pleased with them, because not only am I involved with these very important projects, but they are very dear personal friends of mine. I am really happy to be with them here.

My Tribe, the Winnebago Tribe, is the most removed tribe in the history of the United States Government. We were moved out of our homeland to four different states, to five different reservations over a period of some 28 years. We became very mobile people, so I guess that is why they named mobile homes Winnebagos. Not only am I Winnebago, but my grandmother came from the Rosebud Sioux Reservation in South Dakota. How many French-Canadians do we have in here? Do we have any here? You must be one of my relatives, because I am also part French. You know the French got run out of the Great Lakes area back up to Canada. At that time the Winnebagos were allies of the French against the English. If there are any Englishmen out there, excuse me. But I am

part French. These two friends of mine Ross and Becky, over there, they are Cherokees. Ross is the principal Chief of the Cherokees of Oklahoma. Becky comes from the eastern band of Cherokees in North Carolina. I always feel good when I see some genuine Cherokees, because about one out of three people, that I meet all over the world, tell me that they are part Cherokee. There is a reason for this. It has to do with people's mind sets. The Cherokees, along with some other tribes, like the Choctaws, the Chickasaws, the Seminoles, and the Creek, they are called the five civilized tribes. I do not know why they call them that, but because they are civilized people I can relate to them. That is why one out of every three people I meet say "I am part Cherokee." People have a mind set that requires that they put everyone they meet into a class or division. You know people like to belong to the highest class — the royalty. That is why they say "my great-great-grandmother was a Cherokee princess." I do not like people to be talking down to me, so whenever I meet that every third person, I tell them my great-great-grandmother was a French countess. That way I can talk eye-to-eye. I am prepared to do that for the next couple of days.

I have a lot of things to say about our development program back home, and the experiences that we have had within our community. I want to relate some of our experiences in working with government, and about our involvement with the private sector. I hope that within the next couple of days, that I can share a lot of good thoughts with each and everyone of you.

CONFERENCE OPENING PANEL SESSION

Discussion and Questions from the Delegates

Question — (Speaker unknown)

Is the tribal self-government in the U.S.A. operative by legislation or through the constitution?

Answer — (Ross Swimmer)

The Constitution of the United States recognizes Indians in the commerce clause, as almost an afterthought, that the United States Government shall regulate commerce and also Indians. That is about the way it reads. This clause has been interpreted several times by the U.S. Supreme Court. Not least among these are the Cherokee cases that were decided in the mid-1800s, prior to the Cherokee removal from Georgia to Indian territory. The interpretation was that the Indian tribes are dependent, domestic nations, sovereign to everyone and everything except the United States Constitution. Subsequent Supreme Court cases have come down as determining the degree of this sovereignty. The Bureau of Indian Affairs has vested in it the responsibility for administering this sovereignty. The sovereignty depends a lot on Congress, which is in turn based on Congressional authority within that commerce clause. In other words, because the Indian tribes are mentioned in the Constitution, and they are sovereign to everyone but the Congress, it has been inter-

preted to mean Congress has plenary power over Indian tribes and tribal governments. Some acts of Congress recognize tribes differently from other tribes so you have different degrees of sovereignty. For instance, the five civilized tribes that Rubin mentioned are generally without civil and criminal jurisdiction. They are subject to the law of the State of Oklahoma. On the other hand, many of the reservation-based tribes have their own civil and criminal codes. Insofar as their membership is concerned, they are sovereign governments. In other words, on that reservation they make the law for their members. They do not necessarily make the law for non-Indians travelling through the reservation. There have been some recent cases on that, so it is a conglomerate and somewhat confused set of laws. However, these laws do emanate from Congressional Acts, based on the authority of the Constitution. One learned jurist said that the plenary power of Congress is very analogous to a small bug walking around a table with a big thumb on top of it. You could say, that at any point in time there is, or there is not, an Indian tribe. The power of the Congress of the United States can terminate, dissolve an Indian tribe at any point in time. That is the kind of a threat that hangs over us. As far as I know, no Indian tribe has ever been terminated without their con-

sent and their desire. There is some talk about it from time to time. It has even been the policy of the government from time to time. It is not the policy of this current administration. I do not think there are any signs of the theory of termination, which would be the reverse of what you all are trying to get into up here. So it does emanate from the Constitution and the Congressional Act.

Question — (*Speaker unknown*)

I have one more question for you. Before I pose that question, I would like to say, on the subject we were given that we have a frightening thing in our new Constitution in terms of the formula. It kind of scares me when we say we must increase our self-government because down the road there will be many changes and it may be difficult to come in. That is the reason I posed the question. My second question has to do with taxation. You are looking at a person who has many doubts about this self-government thing. I have even told my friends that it is nothing but a phony item. But getting right down to brass tacks, this self-government is no good to me if it comes to me as a half measure. I will give you an instance. In British Columbia we have one of the biggest purchasing powers off the reserve. In this Province we have a seven percent sales tax. This generates millions of dollars annually, which is divided up within the municipalities. But not one cent goes to the reservations. This self-government thing is no good to me unless my tax dollar can be used to operate my self-government to administer its own affairs. If it is not recognized that I should get a return from my tax dollar, then I will have to continue to do what we have been doing for 117 years. That is get down on our knees, face east and beg for money to administer self-government. In the United States have you that problem? Do you return a tax dollar to the American Indians?

Answer — (*Ross Swimmer*)

Some of my other colleagues might wish to comment on this, because the law is still a little bit unclear but as a result of Supreme Court cases, the ability to tax has been determined to be with the Indian tribes or Indian tribal governments. A recent challenge to this has been attempted against the right to levy a severance tax on energy resources coming off the reservations. It had not been done in the past. Many of the tribes enacted tax ordinances in their constitutions. Today it is a pretty generally accepted principle of the power of the sovereign right of the tribe to tax. And as you say, without having the power to tax, you certainly do not have the power to develop. This is a very important distinction that I think needs to be made in terms of economic development and how it is used. In some of the literature we reviewed, we believe we have found through various sources, that the tribal governments, in fact, are not the best in the world to be in economic development. The same could be said for almost any of the 50 states in the United States Government. Almost everything they get into is a failure. As far as economic or private enterprise, it just does not work well within a government. The government is there to provide services to the people that need services, that are for the common good: water, sewer, police and fire protection, things such as that. Well the way that happens in most areas is through the ability to tax. If tribal governments have the ability to tax, and something to tax, they are able to provide these services. In the past we have looked, and I



Ross Swimmer

think the Federal Government has looked, at the tribes as an economic developer that start up enterprises and small businesses. The profits generated are used to invest in the infrastructure of the tribal community. This is pretty alien to anything that is done in the real world. What needs to be done is that more emphasis has to be put on tribal government to perform as a government. More emphasis needs to be put on the individual, the entrepreneur, to start up businesses on the reservations, so that the Indians' money can be spent on the reservation instead of elsewhere. We have to allow the governments to tax, to put a seven percent sales tax on businesses operating on the reservation, as well as off, and then permit that money to flow to the tribal government so they can provide services. Let them use this money to build infrastructure. That seems to make sense in a very simplistic way. We do have, in answer to your question, the power to tax and it varies from tribe to tribe. Without this power you do not have sovereignty, either.

Question — (*Speaker unknown*)

I want to direct my question to Mr. Allmand. First of all I want to commend you on your excellent summary of the findings of the process and recommendations of the Parliamentary Task Force on Self-Government. I would, though, want some clarification on the concluding remarks in which you state that the now dead C52 did not address any of the recommendations that were made by the Task Force, and you state that after the election, whatever the outcome, there would be some improvements made on that particular Bill. I just want some clarifications as to what kind of improvements you visualize to bring that kind of bill in line with the recommendations made by the Task Force you were on.

Answer — (Warren Allmand)

Those of us who were on the Task Force, while we welcomed the Bill on Indian Self-Government, as was pointed out, it did not contain provisions that followed through on the recommendations that we made. It did move in that direction, but it was a half measure. We had hoped that if Parliament was not dissolved, that as is the case with all bills once they pass second reading, it has to be referred to standing committee. In this case, it would be the Standing Committee on Indian Affairs and Northern Development. Since there were seven people on that Committee that were also on the Task Force, we would make amendments. We would hope to make amendments to the Bill. Now, the Bill did not even get to second reading, but many of us had already expressed our concern about it. It is hard to tell what is going to happen now because we do not know who is going to win the election. It is my feeling, that since we already put out Bill C52 and there were comments on it, we will benefit by those comments and I do not think any party, no matter who wins the election, will get away with anything less than Bill C52. I also believe that the Committee, the Standing Committee on Indian Affairs, which for the most part, has been a pretty non-partisan Committee over the years, will be able to take a pretty active role. Since I am not a member of the Cabinet or the Government, I am just a backbencher, I cannot give you commitments on what the elected government will do. I know that if I am there, as a Member of Parliament, I intend to try and push for an improved bill. Mr. Oberle, who will be here tonight, personally will take the same position, but we do not know what the parties will do.

Question — (Speaker unknown)

I am from the Centre of Study Cooperative, the University of Saskatchewan. When the three types of groups, that we were all supposed to fall into did not include the sector which I represent, it raised a question in my mind concerning what seems to be an inherent difference in perspective and level of focus. Maybe Mr. Sterritt could respond to this difference, where the Canadian panel is focusing on resolution of rights at a certain level, and the American panelists are focusing on questions of entrepreneurship and certain micro level phenomena. I was wondering if Mr. Sterritt could perhaps comment on this apparent difference and whether he sees a point of convergence?

Answer — (Neil Sterritt)

Thank you very much. Yeah, we definitely focus on the Indian Government Commission in Canada. The base for the Penner Report was very broad, it dealt with Indian Government, and it dealt with economic development as an aspect of Indian government. But you have obviously noted the difference between the two. I do not think it is probable for them to address. I do not think it suggests that they are not addressing the broader issues down there, but we do have a commission, or the group from the United States, whose focus is on economic development. The presentations made by the aboriginal tribes and nations in Canada to the Task Force, contained a lot of emphasis and discussion on how the fiscal arrangements that are necessary for tribal government to occur. I think a lot of this is reflected in the Report. However, what I see is a

major difference between the two countries. In the United States, there are a lot of reserves there that are really huge. They have a lot of resources in the United States. Generally in British Columbia, and in many parts of Canada, the reserves are very small. It really is an inadequate resource based for taxation. We do have the treaty areas, but it is a little bit of a different situation in Canada. Generally in British Columbia, our reserves are small, we have to be talking at the claims level. Our claim level is 30,000 square miles. The Nishga claim is 56,000 square miles. That is the basis, that is the source which will allow us to start talking about fiscal arrangements. We have to be discussing that level, because there is nothing to tax on the reserves. Out of 30,000 square miles that is available to our tribal group in northern B.C., we only have 45 square miles of reserve. You can take three farmers in our area and they have more land than all our 7,000 people, and you know they are making some sort of a living off that land. Indians are sovereign states within the United States. We have not begun to approach that yet except in terms of the kind of changes that are going on at the Constitutional Conference. It is a case of what I was talking about in my presentation, the difference in the way we use words. Initially the term "sovereignty" scared the hell out of anybody who was not Native at the conference table. Eventually, we got down to the nitty gritty of what we were really talking about, that was exclusive jurisdiction. We were talking about some form of domestic sovereignty, and/or exclusive jurisdiction. Once that is established at the constitutional table, then it would be much easier to talk about self-government and the economic basis necessary for this development and our survival. Right now we are standing on two moving logs in very deep water and we do not have those logs chained together with a common concept of the political status of aboriginal people in Canada. Not in the sense that you have it in the States. So with that in place, the domestic sovereign concept in place in the United States, they can talk about these other aspects with greater surety than we can here. Hopefully, by 1987 that will change.

Question — (Speaker unknown)

I am not sure how to phrase the question, but I just want to remark on a focus that came to mind when Neil Sterritt was speaking about Billy Diamond. I think that many different racial or ethnic groups have made various suggestions to contemporary society. I think that the importance of this lies in the fact that they are able to retain their traditional beliefs and values, and at the same time, make the adjustment to the larger society. You mentioned Billy Diamond. People on the west coast may also know a fellow named Jimmy Seaward, who I think is another person who throughout his life has been pretty successful at making his traditional world consistent with what he sees around him. I do not think that is a major focus of this conference. I do not see that in the program, but maybe it is one that is sort of working in the back of our minds. It is for me. The question I would like to ask is: For those of us who are not Indian or with Indian groups themselves, who may be either working in government or private sectors as we identified, who can better either identify or work with tribes to make this transition in their own rights more successfully, is there anything in particular that we can do to assist them?

Answer — (*Neil Sterritt*)

I want to elaborate on the point I was trying to make about Billy Diamond. The point I was really trying to make is that when our elders were addressing, say the McKennaMcBride Commission in 1912 to 1915, or when they travelled to Victoria or even to London, to meet with the Queen, or the Prime Minister, or the Premiers and Governor General of B.C., they were received as though they were savages. As far as I am concerned, we have a superior sense of values, sense of self worth, we had independence, we had pride, we had a number of good qualities. If we could have made our points equally in the same language, and if the other side did not have these built in prejudices about who we were, and if we could have defined that relationship at that time, I think things would have been far different today. And I use Billy Diamond as an example of a man who had all of that, and the ability to communicate in English. So if society can accept that, that this prejudice is still present, if you can accept that, then I think we then have a basis for moving forward. That is about all I can say. I know a number of people who are prepared to listen. Let me give you an example. I met with the Attorney General of B.C. in 1975, Alan Williams. At that time, he did not know who I was. You know I was meeting with him because the government had changed. It had gone from NDP to Socred and I had to sit down with him for some reason. In any event, what he said to me when I brought up the subject of land claims was: 'Just because a bunch of Indians have wandered up and down the Rocky Mountain trench for a few hundred years, that does not mean they own it.' That is a direct quote. On March 8th of 1983 Edward John, one of the leaders from northern B.C. and myself, met with Al Williams to describe to him

how we owned B.C., how we owned 30,000 square miles of our territory. We had a half hour meeting. At the end of that meeting, Allan Williams turned around, he understood what we were talking about when we said we had title. Now that was quite a dramatic reversal over about eight years. If we can get by those barriers, if we can sit down and present our case well, if people are listening, we will all get somewhere. But we have to start, like Marnie has said, at that highest level, talking about title, talking about sovereignty, and talking about the basis for any future relationship, and do not get crazy ideas about what we mean by that future relationship, we have a chance to move forward. That was actually what was really valuable about the forum, because that is the message the Task Force on Indian Self-Government got from every tribal group they met in Canada. But that is what we attempted to reflect, so there really is a lot that we have to do. We are just skirting the surface. We have got to be clearer on what we are trying to say. We have got to be able to express where we are coming from, and then we have got to be pretty firm about where we want to get to. I think, as George Watts said last night, we have something to offer Canada, because Canada is in trouble. The North American culture is in trouble. I think we have got to work that out. That is what I meant by Billy Diamond. I did not want to give the corporate analogy, as much as I wanted to give an example that shows that you can come out of one culture and have all the values and the ability to communicate on equal terms with the highest levels of corporate Canada. We can talk to Mr. Trudeau. We have got to start at that level and build a base to get where our American brothers are at in terms of independence.

CONFERENCE SUB-THEME 1

WORKSHOP OUTLINE

WORKSHOP TITLE:

Community-Based Planning and
Economic Development

WORKSHOP COORDINATORS:

Alain M. Cunningham,
Department of Indian and Northern Affairs,
Vancouver, Canada

Mike Lewis,
West Coast Information and
Research Group,
Port Alberni, B.C. Canada

WORKSHOP FORMAT:

This workshop had an opening introductory session, and three main sections: (a) Foundation Questions: What is Self-Reliance? (b) Planning for Economic Development, (c) Marketing and Financial Self-Sufficiency Approaches to Community Economic Development.



*Left to Right: Mike Lewis, Rebecca Adamson, George
McRobie, Robin Dodson, Alain Cunningham*

COMMUNITY-BASED PLANNING AND ECONOMIC DEVELOPMENT

PANEL PRESENTATIONS

Community Economic Development Strategies For Underdeveloped Areas

by

George McRobie
Director, Schumacher Institute
London, United Kingdom

As Director of the Schumacher Institute I would like to share some experiences of a few projects that we have been involved with in various parts of the world. The projects are largely concerned with the applying small-scale technology to rural-based community development. This of course, has application to Native communities. First, however, I should explain that the Institute came into being to counter what we saw as unfair economic relations between rich and poor countries. Specifically, the type of development being promoted by industrialized countries in the developing world is a mirror image of their own experiences. This serves to concentrate economic development in the cities and impoverish the rural areas.

Appropriate Technology Development Centre — India

There are about three million household weavers whose competitive position is being threatened by the big mills. When the Indian group of the Institute analyzed the problem, they found that household weavers can only barely compete in the market place because they had to buy cotton yarn from their competitors, the big mills, who charged them twenty percent more on their costs. The challenge, therefore, was to see if large-scale economics could be duplicated using small-scale technologies. The cotton spinning operation would be owned, managed, and maintained at the local level. It was hoped, that in this way, the household weavers' competitive position could be improved. What our Indian colleagues did was to set up a small technical service centre which purchased semi-prepared cotton or "rovings" in bulk. This bulk cotton, ready for spinning, was made available to the weavers. The service centre produced the equipment necessary for spinning, and leased it out to the individual operators on a long-term hire-purchase basis. They also provided management advice and information for marketing. In all, the effect was to provide the same economies of scale, credit, and expertise that large companies enjoy, but at a local level amongst a large number of small decentralized operators.

Farmers' Association, Cameroons

The Institute, working with Appropriate Technology International from Washington, D.C., have recently launched a program in the Cameroons, West Africa, for a farmers' association producing palm nut oil. Although

there is a strong local and international market for palm oil, the farmers were only marginally competitive because of their dependence on outside technology.

The answer was to find a small handpress which could be manufactured and maintained locally. The farmers' association set up a technical unit that provided credit for the farmers to buy the equipment, and pay for it over a period of time out of their increased earnings. The Unit also provides advice on proper maintenance of the handpresses.

Rural Community Development, Sri Lanka

The world's biggest community development movement was started about twenty years ago by Ari Aratney in Sri Lanka on Africa's east coast. Instead of the traditional top-down planning process, where each sectoral government agency determines local development needs, the local communities prioritized their needs from the bottom-up. They did this on a collective basis to establish an infrastructure for education, health services, and agricultural support. In the same manner, there is a growing movement in many developing countries which says that instead of agricultural scientists instructing extension officers on what to say to farmers, the locals should tell the scientists what their needs are. In this way, agricultural research becomes supportive to community-defined needs, instead of merely meeting internal bureaucratic or university agendas.

Community-Based Organizations, United Kingdom

With the rise of unemployment in Britain, about one hundred self-help groups have been formed with different memberships that variously include businessmen, chambers of commerce, local retired persons, and young people. The basis for all these organizations is an understanding that modern technology and centralized business structures are often unresponsive to local needs, and communities have to pursue their own initiatives. Despite considerable operating differences, common activities include the setting of development objectives to satisfy local needs, the attraction of necessary finance capital, and the identification of appropriate technologies.

Seeking Commercial Opportunities

A fundamental principle emerging from these and other experiences, is that commercial opportunities in underdeveloped communities should be appraised at three distinct levels.

- (1) First, there are those commercial opportunities which would be attractive to outside marketing institutions at a normal rate of return on investment. However, it should also be noted that the enterprises receiving outside capital can be variously organized to suit local circumstances, such as small private firms or worker-con-

trolled cooperatives.

- (2) Second, there may be opportunities which are not necessarily attractive to traditional sources of capital, but will provide enough profit to justify using otherwise unemployed local resources. However, in these instances, more innovative sources of funding have to be made available.
- (3) Third, there are many economic activities which can be undertaken outside of the cash economy, or in what is often called the informal economy. That is, community ventures which provide mutual help for each other through the exchange of goods and services which people need, but cannot, or do not want, to pay for in cash. One way of institutionalizing the informal economy is to establish a system in the community for banking work credits without exchanging cash.

Cutting across all these levels are opportunities for the protection of local industries, for import substitution, and increasing local value-added production. We have to reject some of the dogmas of free trade and recognize it as a deliberate economic strategy for favouring some economic interests, and not an axiomatic economic truth. No small community ever really developed on the basis of allowing anyone to come in from outside and destroy what they are doing. Nor should communities with unemployed resources accept being flooded by imports. Lastly, exporting raw materials from communities without any processing is a prescription for poverty.

Conclusions

To sum up all the above, community economic development strategies should include three elements. First, local communities need to organize themselves to inventory their resources, analyze their opportunities, and provide internal support. Second, a wide and often innovative view has to be taken of the potential commercial opportunities available at all three levels mentioned above. Third, and lastly, resources have to be provided in terms of skilled labour, locally-controlled capital, and appropriate technology.

Public Policy For Supporting Native Community Economic Development

by

Robin Dodson

Regional Executive Director,

Department of Regional Industrial Expansion
Vancouver, Canada

At the outset let me say that I am not here as an expert on community-based economic development, or as a spokesman for government. Rather I wish to share some personal observations, that built up during my previous years of employment with the Department of Indian and Northern Affairs, on the constraints and opportunities to make public policy truly supportive of Native community economic development.

Two Basic Themes on Government Policy-Making

I would like to preface my remarks by pointing to the fact that government in this country, as in many others throughout the western democratic world, is organized both administratively and politically on the basis of an ultimate accountability to the Canadian electorate and the Canadian taxpayer. It should be hardly surprising, there-

fore, that the actions of governments are dominated, or interwoven by implicit assumptions about majority cultural values. It may be less obvious that the way in which bureaucracies are organized, and the way in which bureaucracies go about making decisions, has a very marked effect on the ability of governments to respond to the social and economic problems of its citizens. This is particularly true of Native people. Now what I want to do in the few minutes that are available to me is explore both these themes.

Development as Consumerism

The dominant value system in North America essentially differentiates, in my view, between respective states of development and underdevelopment in terms of the magnitude and extent of goods and services that are consumed and available for consumption. In spite of the growing scepticism of development theorists such as George McRobie and his late colleague, Dr. Schumacher, about the continuing efficacy of a consumer life model as opposed to the conserver life model, North Americans continue to associate development with the consumption of goods and services. This inherent value system is applied to commodities in the marketplace, as well as to what are expressively termed as "public goods." Thus, the relative consumption levels of health, education, and social services is seen as being indicative of a state of development.

I guess the point of all of this is the public at large considers the greater availability of these goods and services as inherently good, and the lesser availability of these services as inherently bad. This has onerous consequences for the Native community as governments attempt to respond, not only to their legitimate demands, but also to well-intentioned pressures from the public to improve living conditions and accelerate Native development. Faced with a situation of perceived underdevelopment, there is a strong predisposition in public policy-making to automatically seek solutions through expanding services. Moreover, these services are reflective of the dominant culture's standard response to the manifest symptoms of social and economic problems. Unfortunately, when the services are provided in nonstandard situations, they can produce results which are totally contrary to those expected. In the Native communities over the last twenty years, a number of observers have recorded results ranging all the way from debilitating dependency, produced by social assistance and welfare, to the outright psychological and social chaos.

This is not to say that efforts have not been made to try and deal with these impacts. One of the most popular innovations in the last ten years has been to transfer the control of programs from government administrators to the Native people. In many cases, however, the results are not very exciting. Since they are still the same government programs, and Native administrations are still subject to the same terms, conditions, guidelines, regulations, and criteria that the government bureaucrats were using before, the programs continue to have much of the same negative impact they had before. One also should not be surprised, therefore, at the increasing sense of frustration felt in many Native communities, that has accompanied this process of transferring the control of government programs.

A New Approach

The answer to this dilemma would appear relatively ob-

vious: That is, to allow Native communities to take control over the administration, as well as the design of programs. This might be envisaged as a three stage process, as it has been at various times in the past. First, Native communities should be given the opportunity to examine their own problems, not only in terms of symptoms, but also in terms of causes. Native people should be allowed to decide for themselves the best way to overcome their problems. Second, Natives should be allowed to design their own programs to meet the needs of their communities in a way those communities, through established social and cultural structures and value systems, have traditionally solved these problems in the past. Third, Native communities should be given the opportunity to administer these programs, and adjust them as experience dictates, to increase their effectiveness and produce results. This somewhat idealistic process would be recognized by many, and has been described by perhaps a few, as a process of community-based socio-economic planning and development.

Impediments to Action

One could ask at this point, if it is so simple why doesn't it happen more often. Why doesn't the government at both the federal and provincial levels adopt such a process? I guess the answer lies partly in the second problem that I noted earlier. That is, the bureaucratic organizational model, and the methods by which it solves government problems. I would like to illustrate with an example that sticks in my memory from a number of years ago.

Clearly, one of the most persistent problems facing Native people and government over the last twenty years has been that of housing. The Department of Indian Affairs has carried out countless studies into the state of Native housing over the years. Despite some differences, they share a common quantitative approach of inventorying the current stock of housing and comparing this with a projection of the number of family units required. In this way, the problem is reduced to a set of numbers on a piece of paper, and the task for the policy analyst becomes one of designing a program to reduce or eliminate that numerical representation of the problem. Again, this should come as no surprise to anyone. Government bureaucracies depend upon cabinet and treasury board systems not only to procure the money they require to run programs, but also to acquire authority for running the programs. Thus, the bureaucracy must describe what they want to do, how much it will cost, and what will be produced in terms of results. The results, of course, are simplistically defined as the number of new housing units, the number of units repaired, and the number of families requiring shelter.

The trouble is that these rationalizations for resourcing of programs become the personification of the problem and ultimately take on credibility as a *true* representation of the problem. The Auditor General, the Comptroller General, program evaluators, parliamentary committees, the entire machinery of government, comes to understand the need for Native housing from this statistical or numerical point of view. The program objective becomes the delivery of housing units. The strategy becomes one of delivering the maximum number of units at minimum per dollar cost to the public. This is something that the bureaucratic system understands and can get to work on! And get to work, it usually does. Cabinet documents get prepared, program analyses are carried out, and sources of funding are explored mercilessly. Departmental budgets, band funds, labour subsidies, CMHC guarantees are

looked into, and housing designs are generated to deliver maximum square footage per dollar spent. Systems of tenure are explored; rental schemes using shelter allowances are proposed; mortgage programs based on wage-income economies are considered. At the end of it, if everything goes well, and if the nod is given, the programs are delivered, and indeed the numbers start to improve, and the "problem" seems to go away.

In all of this, you will notice that there has not been much consideration to the impact that this new housing will have on the community, or indeed, on the individual family unit. There is not much discussion about the role that shelter plays in the social and economic dynamics of community life; of the effect that housing has on education, on systems of land tenure, on political power structures, on the need for cash incomes, or on community health and well-being. After all, "a house is a house is a house," and these other issues are separate and require different solutions. Everyone knows that you solve economic problems with economic programs, you solve education problems with education programs, social problems with social programs, and housing problems with housing programs!

The point here is two-fold: government is organized in a fashion that deals most efficiently, and most easily with symptoms of problems and *not* with their causes. Government can most efficiently and most easily deal with one problem at a time in any given program. Unfortunately, most problems cannot be discretely categorized into "health," "housing," "economic" or "social" compartments, but are far more interrelated and complex in their origins. Neither do they melt away when a couple of band-aids are applied to their most obvious symptoms.

Conclusion

The minimum requirements of community-based socio-economic development are nearly impossible for government to provide through their standard program and service delivery systems. As an alternative, an approach was articulated in the Report made by Jack Beaver, in 1979, to the President of the Native Indian Brotherhood and the Minister of Indian and Northern Affairs. Of course, his conclusions were based almost completely on the earlier work done by the National Brotherhood Social-Economic Task Force in the early 1970s. Beaver in his Report outlined two basic requirements for a new approach to community-based social, economic development. First, the requirement to have authority to manage one's own affairs: That is, the authority to set one's own objectives and to analyze one's own problems. The authority to design solutions, and implement them. Secondly, the requirement to have the resources necessary for exercising that authority, including the money, technical assistance, and administrative support structures.

I do not want to spend too much time on the first of these requirements, for there are many more competent people than I, including some at this conference, who can speak about the transfer of authority inherent in claim settlements, constitutional change, and legislative reform. They also can speak with some authority on the impact these changes would have on the capacity to pursue true community-based planning and social, economic development. I must confess a certain fascination, however, with the challenge to government to change its financial and administrative structures in a way that would support success, as measured by Natives, rather than by government.

Terms which indeed may vary from one community to another, and even within the same community over a period of time. Terms which may differ significantly from those that measure success in downtown Toronto or even rural Alberta. Terms which could well baffle the more reactionary elements in Canadian society, and which may mystify even the well-intentioned. But, being an optimist at heart, I am confident that these systems will be devised. I am convinced that we really have no choice but to devise them. Once in place, I suspect that they may prove to be useful as a model for government. A model that can be applied to a whole range of social and economic problems in our society. A model that will be used in a way, and bring about results, that we presently cannot even imagine.

Alternative Perspectives of the Challenges To Community Economic Development

by

Rebecca Adamson
Director, First Nations Financial Project
Falmouth, Virginia, U.S.A.

I would like to start by saying something about the First Nations Financial Project in which I am presently engaged. We were founded in 1979, and serve as the only Native self-help network among tribes in the United States that is generating alternative approaches to the economic development models that were thrust upon us in the past. We receive our funding from the Ford Foundation, which allows us to say things that federally-funded organizations are not always at liberty to articulate.

Three Ways of Looking at the Problem

It is clear from our work that key reforms within the federal system itself, as well as within business, and the wider economic community is required if economic development is to be successful in meeting tribal goals. The essential point is, that successful reservation economic development is no less than economic equality and justice. However, the way that the challenge for community economic development is often defined, does not always support this perspective. I would like to describe three different perspectives on tribal development. First, an outsider's view of the obstacles to business development on reservations. Second, a traditional Indian response to these criticisms. Third, a new evolving Indian perspective based on a better understanding of the dependent relations between tribal economies and the national economy.

The Outsider's Perspective

The prevailing perspective among businessmen and lending institutions is that Indian reservations do not provide a conducive climate for investment. We are told that because our land is held in trust it cannot be used as collateral; that, if we default on a loan we are immune from lawsuits for recovery. We are considered an unacceptable risk because of our unique political structures. There is also the problem of insufficient controls on past capital investments. Inadequate controls are said to demonstrate a lack of business understanding at the reservation level.

Another perceived problem is the inadequate infrastructure on Indian reservations. We have poor sewer systems, bad schools, and inadequate health services. Therefore, there are not the necessary services to operate a

plant, or to provide the type of business environment necessary to encourage investors to move on to the reservations.

Still another problem is the presumed unsuitability of our labour force. We have a limited pool of available labour, much of which is unskilled in modern production methods. We have culture predispositions that conflict with work requirements. Our people often lack management skills, that also seems to limit the business opportunities on our reservations.

Finally, there are said to be problems because of political instability. Our election procedures are such that elected officials are in office for staggered terms. This generates uncertainty and an unstable atmosphere which is not perceived as suitable for business.

The Traditional Indian Perspective

A different view of the challenges to reservation development has traditionally been subscribed to by tribes faced with the types of criticisms described above. Most fundamentally, Indian tribes do not have local control over the types of economic development projects and programs that are imposed on their reservations. The projects are often devoid of cultural relevance to Indian people, and may even be socially disruptive. The lack of local control, coupled with the feelings that the project is not appropriate to local needs, often leads to a "no-win mentality." Whatever is done will be wrong, so why try.

It is probably true that from the 1960s through to the 1970s, literally millions of federal dollars have been invested in Indian reservations with little positive effect. There have been public works programs: Roads, schools, hospitals, and houses have been built. Community action programs have been introduced. This effort has not solved our problems. We have been the recipients of a Comprehensive Employment Training Act. There have been relocation programs for our people to move into the cities. The Indian Reorganization Act was established with a view to restructuring traditional tribal governments for increased political stability. This has not solved our problems.

The New Indian Perspective

Many Indians are now looking at the challenge for community economic development in terms of generating a more balanced relationship between tribal and the national economies. The wisdom of this approach is demonstrated most clearly by the trade imbalance that we discovered on the Pine Ridge Reservation. In Pine Ridge, even if you want everyday items, such as baby formulae, disposable diapers, or a six-pack of Coke, you have to drive 50 miles off the reservation to a border town to make a purchase. As a consequence, nearly all the money that comes on to the reservation promptly leaves without providing any benefit to the local economy. For instance, our studies showed that in 1982, over 82 million dollars of income came on to the reservation through transfer payments or lease rentals. When we traced what happened to that money we found it generated millions of dollars of economic growth in the surrounding border towns.

Another problem we have perceived is that outside economic interests often play havoc with reservation economies. Much of the legislation that has been imposed on Indians such as the General Allotment Act and the Termination Act, were motivated by outside special interest groups. For instance, the majority of the tribes terminated during the Eisenhower Presidency were in Oregon, Wisconsin, and northern California. These tribes had ma-

for lumber holdings. No sooner were they terminated than the major companies moved in and bought up the land.

We also have been the recipients of inappropriate development models that are imposed from outside. Two types of models have been commonly attempted. First, federal subsidies have been provided to lure outside industries onto the reservation. However, as I pointed out earlier it is naive to believe that prudent businesses will be induced to locate on an Indian reservation, when they have to drive twenty miles to the closest shopping centre, where the average achievement level in the local school is around the seventh grade, and hospital and health services are inadequate to deal with an infant mortality rate that surpasses third world nations. Second, entrepreneurial training has been provided to selected individuals on the assumption that they would be a catalyst to reservation development, but in fact, after training, most move to big cities where there is a better business climate. As a result of these top-down programs, we have suffered industrial parks that remain vacant. We have motels that are not patronized by tourists, because they do not want to spend a night in poverty and isolation.

Lastly, we have observed that federal programs are not organized in a manner that is conducive to developing

management capacities. For instance, all unspent monies have to be returned to the federal treasury, so there is no incentive to manage your budget carefully and make a profit. This is true, because money not spent in one year, will be taken out of the following year's allocation.

Similarly, if you are continually discouraged from taking risks, then you never build-up the necessary management experience. It should be recognized that experience is acquired from both successes and failures. Risk taking is a necessary part of the learning process. By discouraging risk taking, the government is, in fact, losing a very important opportunity for training Indian managers.

Conclusion

I hope this third perspective encourages a fresh look at the real challenge to Indian community economic development, and sparks some creative responses. New responses that will lead to more emphasis on planning at the community level. Development which is tailored to the needs and aspirations of those living on reservations. A greater focus on programs that encourages, rather than discourages, personal initiative and sound management practices. Finally, programs that will facilitate long-term success rather than short-term solutions.

WORKSHOP DISCUSSION SUMMARY

Community Based Planning and Economic Development

SUB-THEME #1

The community-based economic planning and development workshop was divided into the following three sections: (1) Foundation Questions: What is Self-Reliance? (2) Planning for Economic Development, and (3) Marketing and Financial Self-Sufficiency Approaches to Community Economic Development.

The focus of presentations and discussions throughout the three sections was on basic principles, derived from actual experiences of "what has worked." As a basis of comparison, however, some time was committed to analyzing what "does not work." There was consensus amongst delegates from both Canada and the United States that the traditional types of development models that are imposed on North American Indians are inappropriate to their needs. One example used to demonstrate this included the "consumer model," described by Robin Dodson, which specifically associates development with the consumption of goods and services. Another was the model described by Rebecca Adamson, which indicated how inappropriate development initiatives serve to perpetuate Indian dependency on outside agents.

Workshop participants were almost unanimous in condemning what can be described as narrowly focused, top-down approaches to planning and development. The economic viability of many Native communities is a priority concern. Such development should be accomplished within a political and social context that is designed to maintain a separate Indian cultural identity. The Canadian participants emphasized that a viable and stable eco-

nomic base was not only imperative for improving material living standards, but also to facilitate Indian self-government. Full independence will be possible only when Native people are in a position to provide for themselves. This necessarily implies that a local community tax base has to be established in order to provide those basic services that are currently financed by government.

It was recognized that a key component in developing an economic base is the export of processed and semi-processed natural resource products. Indeed, the very survival of many Native communities depends on their abilities to compete in the marketplace with other producers of products that can be produced on reservations. However, the challenges are considerable. First, whilst many Native communities are located in resource extracting regions, their reserve land bases are often too small to support economically viable operations. Second, Native people often lack the critical managerial and technical skills to compete effectively. Third, many Native communities are trapped in a cycle of low economic activity, insufficient capital accumulation, and a lack of investment in new technology. Fourth, outside banking and business institutions have not always been prepared to support on-reserve developments. Fifth, outside government agencies often inadvertently work against Indian interests by imposing initiatives that impede, rather than support, local development.

Native, business, and government participants were optimistic that these challenges could be met by Indian com-

munities. It was felt that they could become economically competitive in a way that would preserve an acceptable level of local autonomy. The participants in all three sections identified both past examples and future opportunities for employment and income generation in such areas as fisheries, forestry, agriculture, and tourism. Likewise, they affirmed that this would only be possible through collaborative approaches by Indians, the private sector, and government. Thus, "self-reliance" is not synonymous with "going it alone." However, it does require that local communities have control over their own development processes.

During the discussion it was emphasized that private ownership and individual initiative should be used as the primary vehicle for stimulating on-reserve development. Some Canadian Indians strongly complained about the tendency of the Federal Government to impose socialistic modes of economic organization on Native bands. Government officials often assume that band-owned businesses are the most appropriate way to encourage on-reserve development. According to these participants, this detracts from personal initiative, diminishes profit incentive, and reduces overall accountability. Native government has a role. However, this role should be directed to developmental planning, and providing the necessary economic, social, and physical infrastructure to support local business development.

The objectives of Indian development planning are to provide a tool for bands and tribes to control their economic future. This development approach should be community-based, comprehensive, and facilitated by Government. Some common principles can be identified:

- (1) Control should be vested in the local community for directing its own planning process to ensure relevance to local needs, circumstances, and aspirations. Through systematic and procedural decision-making, Indian people can define their own problems and potential solutions, and make choices. Instead of continuing their dependence on inappropriate government programs, bands and tribes would plan, implement, and evaluate their own economic and social programs for stimulating business, and job creation.
- (2) Top-down decentralization of planning control from government is complemented by bottom-up participation of all community groups throughout the planning process. Meaningful participation in community-controlled planning processes accords with the best democratic principles, and is also a vehicle for improving the social health of depressed Native communities. Organized involvement can revitalize community social systems, mobilize individual interest and commitment, and facilitate learning to enable adaptation to new situations and opportunities. A sound, healthy, social base is absolutely necessary for effective economic development.
- (3) Bands and tribes often need outside technical assistance. However, much work can be done by the communities themselves with suitably trained planning staff to research and analyse resource and market opportunities. Where specialized expertise is required from outside, it should be controlled by the community.

- (4) Development planning should integrate all the strategies for decision-making, community organizing, and technical assistance described above. Past experience has shown that decision-making by band and tribal leaders does not have much impact on future development, unless complemented by community participation and sound technical advice. Also, integrated planning processes are more likely to generate creative ideas for the integrated development of substantive outputs. For example, the provision of band housing can be viewed both as an opportunity for meeting a social need and realizing an economic opportunity.
- (5) Planning at the local level should be facilitated rather than controlled by government. The Federal Government can improve the climate for bands and tribes to undertake their own development planning by transferring program responsibilities, providing block funding, and removing legal and policy impediments. Government should provide support for bands when they negotiate with provincial/state agencies and the private sector. Lastly, government's own strategic and program planning should be responsive to Indian planning so that it is complementary to local development objectives.

Jack Beaver's report¹ of 1979, gave recognition to the concept of Indian development planning. Beaver's conclusions were reaffirmed in the workshop. For instance, there was strong sentiment that "Indian Bands be given the authority, responsibility, and resources to develop their own policy for the improvement of social and economic conditions in their communities." Likewise, there was consensus about the need to implement the two inter-linked objectives:

- (a) Indian self-government, which will give bands the option to exercise full powers to manage their own affairs.
- (b) Community-based planning and development which set the conditions enabling Indian communities to move in the direction of self-reliance and to root out what were considered the devastating effects of dependency.

Increasingly, bands in North America are undertaking their own development planning. Particularly noteworthy are the band planning processes used in British Columbia (supported by the Department of Indian and Northern Affairs). In British Columbia, the Federal Government provides the funding, advisory services, and training support to assist bands rebuild their own competencies for development planning. Other examples, in the United States, include business development projects supported by the First Nations Financial Project in Virginia, and the Tribal Sovereignty Program in California.

The substantive outputs of each band planning process varies considerably depending upon such factors as historical experiences, employment interests, the nature of local resources, distance from markets, as well as other factors. However, workshop facilitators stressed the importance of formulating interlocking development strategies that would together ensure the success of a business venture. Too often, for instance, Indian bands/tribes, and outside support agencies, assume that the identification of a valuable natural resource on the reserve is sufficient for economic development. Other critical factors often ignored, are competition from other producers, consumer market preferences, and the requirement for entrepreneurial and

¹ J. W. Beaver, President, National Indian Social Economic Development Committee, *To Have What is One's Own*, 1979.

employee skills. Outlined on the next page is a partial list of factors that were identified in the workshop for formulating effective economic planning strategies:

Factors	Elements
<i>(a) Organizational Development Strategy</i>	
Complementary roles	Elected officials, administrators, private entrepreneurs, other community interest groups, and technical assistance.
Economic ownership and profit distribution	Band ownership, public shareholding, individual ownership, and cooperatives.
Relationships with outside interests	Interest capital, leases, and joint ventures.
<i>(b) Resource Development Strategy</i>	
Human resource development	Motivation-building, job fitting, skills training, and counselling.
Natural resource development	Protection, enhancement, creation, and acquisition.
Financial development	Accessing outside financial institutions, capital recirculation, taxation of local businesses.
Technological development	Capital, operation and maintenance costs, capital versus labour intensity, environmental appropriateness.
<i>(c) Enterprise Development Strategy</i>	
Opportunities identification	Local comparative advantages, internal and external markets, profit and non-profit opportunities.
Venture selection	Market and financial feasibility, duration and stability, equity, quality of life, and local control.
Marketing	Consumer targeting, pricing, promoting, and advertising.
Business Development	Financing, construction, organization, start-up, management.

The following summarizes the discussions and presentations in the Community-Based Planning and Economic

Development workshop:

- (1) If Native communities are to achieve self-reliance, they must control their own planning and development. Bands and tribes should start small with planning and development, incrementally building on successes, with sufficient flexibility for responding to new opportunities and situations.
- (2) The top-down and narrow development models that have been imposed on Indian people in the past do not work. The Federal Government has to facilitate community-based planning and economic development rather than attempt to do the job itself. Programs are often designed in a way that fails to address local needs. The Federal Government can better assist by providing the necessary resources, authorities, and legislative framework for Native people to generate their own employment and income.
- (3) Instead of a demeaning dependency on welfare oriented programs, priority should be given to developing a viable and stable local economic base. Bands and tribal governments do have a role in supporting private enterprise through the provision of the necessary economic, social, and physical infrastructure. This can be best achieved by Indian development planning that is community-based, comprehensive, and which stimulates individual initiative.
- (4) The revitalization of indigenous Indian economies is imperative not only to improve living standards, but also to facilitate Indian self-government and acquire the necessary tax base for sustaining local autonomy.
- (5) The mainstay of self-reliant Indian economies will be renewable natural resources. Native communities *can* compete successfully in fishery, forestry, agriculture, tourism and other resource sectors. However, success will only be achieved if a new emphasis is placed on private ownership and individual initiative as the vehicle for stimulating on-reserve development.
- (6) Band and tribal development strategies should be organized in a way which: (a) generates economies that will allow Native enterprises to compete with off-reserve industries, (b) reduces capital investment costs, (c) maximizes local labour content, and (d) protects the environment.
- (7) The rules and regulations of the Federal Government, through the administration of the Indian Act, often impedes private investment in Native communities. Government regulations, and the interpretation of such regulations, should be designed to facilitate rather than impede outside investment and participation in Native economic affairs.

CONFERENCE SUB-THEME 2

WORKSHOP OUTLINE

WORKSHOP TITLE:

Business and Corporate Development Strategies: Native Corporate Structures: Perspectives on Choices

WORKSHOP COORDINATORS:

Beth J. Carter, Ministry of Industry and Small Business Development, Victoria, Canada

W.W. (Bill) Mair, Development Consultant, Victoria, Canada

WORKSHOP FORMAT:

This workshop is comprised of opening introductory sessions and three main sections. The three main sections were as follows:

Section I:

What Works in Business Management

Section II:

What Works in Joint Ventures and Contracting on Major Projects

Section III:

What Works in Business Financing



*Left to Right: Bob Scrimshaw, Steve Brant, Roger Boyd,
Beth Carter*

BUSINESS AND CORPORATE DEVELOPMENT STRATEGIES: NATIVE CORPORATE STRUCTURES: PERSPECTIVES ON CHOICES OPENING COMMENTS AND PANEL PRESENTATIONS

The Entrepreneur and Native Self-Reliance¹

by

Steven J.R. Brant

Brant and Brant Native Development Consultants
Deseronto, Ontario, Canada

Entrepreneurship is the ability to think, see, and act when economic opportunities exist so as to make money. The National Indian Business Association of Canada estimates that there are between 7,000 and 10,000 Native entrepreneurs in the country, operating mainly small businesses. The questions to be addressed here today are:

- (1) What contribution can be made to Native self-reliance by these Native entrepreneurs?
- (2) If the contribution is positive, why are there not more of them?

The 1983 President's Report on Small Business in the United States reported that small businesses represent 75 percent of all U.S. businesses and created 47 percent of all the new jobs in the country that year. Small businesses provided 67 percent of the initial jobs and on-the-job training opportunities. This happened despite the fact that a majority of these businesses employ twenty people or less. The figures for Canada are very similar. Some estimates calculate that up to 25 percent of all the goods and services produced annually originate from the small business sector. The governments of both Canada and the United States recognize that the small business sector is absolutely vital to the economic health of their respective nations.

If the Natives are to be self-governing and self-reliant, they need a healthy economic base. Moreover, it seems apparent that small businesses can make a substantial contribution to Native independence. The government has been singularly unsuccessful to date in generating Native economic independence. The failure may be in large part due to the general tendency to overlook the importance of small business development.

What then stands in the way of Native small business development in Canada? The basic impediments are well documented. In the absence of self-government, Native people do not control their land or resources. The legal status of Indian reserve lands inhibits access to financing and investment capital. The remote locations of many Native communities makes access to major markets difficult. Little or no business management expertise has been developed within most Native communities. The traditional banking community is not supportive of Native businesses. These hurdles, however, can be overcome — 7,000

to 10,000 Native entrepreneurs give evidence to this. It should be kept in mind, however, that the most significant barriers may be ones that have been erected by Native people themselves.

It is questionable as to what makes an entrepreneur. Is the ability to think, see, and act on economic opportunities something that is learned or something with which a person is born? In any case, it is an ability which must be nurtured in order to develop. Entrepreneurship has not much support within Native communities. Other than for Native politicians, and the treatment sometimes given to successful Native entrepreneurs, there are a few role models for young people. Many Natives, as well as non-Native people have a negative attitude towards Native entrepreneurs who are visibly successful. Anyone from a Native community has anecdotal evidence of this. The negative attitude that some Natives have towards success will have to be overcome if economic self-reliance is to be achieved.

Tribal Government: Government of Corporation?¹

by

Roger Boyd
Navajo Nation Office
Washington, D. C.

Before addressing the question of the relationship between tribal government and corporate developments, a brief history of Navajo Tribal Government will be used to set the context for examining the answers being developed by the Navajo Nation.

Prior to 1923, the Navajo people were governed by traditional, locally based, institutions. In 1923, the United States Federal Government created a Navajo Tribal Council to sign oil leases. In 1935, under the requirements of the federal Indian Reorganization Act, the Navajos elected to retain the tribal council form of government. As presently structured, the Navajo Government is made up of 102 chapters, which together, represent the 160,000 members of the Navajo Nation. The Government is comprised of a 92 member Tribal Council, an executive body and a judicial branch (courts and law enforcement).

In the United States, a tribal government is to be a self-governing body which is responsible for protecting the interests of the people it serves. The role model for tribal governments was the U.S. federal system — in particular, the Bureau of Indian Affairs. Self-government was implemented as a program beginning in 1975 under the Indian Self-Determination and Education Assistance Act. The in-

¹ See Editorial Supplementary p. 41.

roduction of tribal self-government as a program to be put in place, rather than as a concept to be locally developed and implemented, has limited the capacity of tribes to actually be self-governing.

In order to be fully effective, tribal self-government needs to be based on clear jurisdiction, independent authority, and accountability. As an imposed program in the United States, self-government has not served to clarify jurisdiction over reservation land and resources; it has tended to limit the authority of tribal governments. Finally it has resulted in tribal governments reporting and being accountable to the Federal Government rather than to the Indian people.

The Navajo Tribal Government presently must contend with the United States Government continuing to administer a "self-government" program. The Federal Government uses what they recognize as their "trust responsibility" to retain control of the tribal resource development. Federally controlled resource leases have resulted in generating resource development royalties, but it has not helped tribal governments develop the capacity to manage reservation resources.

Navajo Tribal Government is also contending with private sector investors who want to develop reservation resources under terms which would not be acceptable elsewhere. For example, outside investors often demand the waiver of taxes, of pollution control safeguards, water use charges, and even of jurisdiction and sovereign rights. At present, the Navajo Tribal Government forestalls such demands by emphasizing tribal sovereignty and jurisdiction. However, over the longer term a strategy is required that will encourage both private sector investment and a better quality of life on the reservation. The key elements include the building of the infrastructure required to support development such as utilities, transportation, water and sewage systems, fire protection services, and maintaining law and order.

In order to implement this strategy, the Navajo Tribal Government intends to establish a framework of laws and an enforcement system that will protect those residing on the reservation, and at the same time, create an environment that provides a reasonable level of safeguards for those willing to invest on the reservation. The Tribal Government wants to establish clear lines of authority, and consequently, accountability in its relationship with its constituents and with those who invest on the reservation. In pursuance of this, codes for water utilization, land use and environmental protection currently are being drafted.

In short, the Navajo Tribal Government seeks to achieve its goals by combining traditional values with contemporary technology to create a third alternative that fits Navajo realities.

Native Business Opportunities

by

R.T. Scrimshaw
Manager, Native Affairs
NOVA, Calgary, Canada

NOVA, An Alberta Corporation, as you may know, is a respectably sized diversified Canadian company. As NOVA's manager of Native Affairs, I am often asked about our commitments to Native people in assisting them to become self-sufficient participants in the Cana-

dian economy.

Since 1976, the NOVA group of companies has awarded contracts to more than 45 different Native businesses. Native contractors have provided everything to us from clearing pipeline right-of-ways to printing services.

We firmly believe that Natives are fully capable and willing to do business. I think that our experience shows, that with a little effort, proper direction, appropriate commitment, and the right attitude, the relationship between a Native businessman and a corporation can be very positive.

Like a marriage, to make it long-lasting and enjoyable, a great deal of effort is required on the part of both partners. In fact, it requires a full 100 percent honest effort. Like a marriage, each partner has a role to play and a contribution to make.

We are often approached by Native entrepreneurs who have exciting ideas. However, they misunderstand our separate roles. They assume that their's is to create ideas, while ours is to bring these ideas to completion. There is a very definite role for our Corporation in Native economic development. It is, however, that of an advisor, encourager, and occasionally, a devil's advocate. Upon completion of the development process, the Corporation's role is to ensure that there are no discriminating barriers which restrict or impede Native efforts to become involved in the business world. In other words, the Corporation's role is to provide business opportunities.

Can this really happen? Most definitely yes. I recall a discussion I had with Archie Cunningham, a member of the Big Prairie Métis settlement, in the early spring of 1980. It took place in the pool room of the Alberta vocational centre at Grouard, Alberta. As I was walking by he said something to the effect of: "Hey, my brothers and I want to get into business; we know the bush and we can clear pipeline right-of-ways." "What do we do to get into business"? We outlined what we saw as the necessary steps and gave him some suggestions. As a result of this, four months later, the newly formed Seggow Construction and Clearing Limited won a bid of \$450,000 to clear pipeline right-of-way in southwest Alberta. On that first job, Archie was scared to death. There were some nights he did not get to bed. Here he was 350 miles from home, with a crew of 36 men and women, and a contract just short of one-half million dollars. He did not know it all, but he wanted to learn and he took advice from every source available. Today, Archie and his brothers and crew are very good and very successful.

Since then, Seggow Construction and Clearing Ltd. has won a number of contracts with us, not only in clearing but also in revegetation of pipeline right-of-ways. Seggow has our full confidence. We have since hired the Cunninghams to assist other Native contractors who have gotten into difficulty and behind schedule. Yes, if the NOVA's and Seggow's of the world play their roles fully, honestly, success is possible.

Occasionally, we are approached by Natives in the company of non-Natives who wish our approval of their joint venture. Our response is very simple: The Native partners in the joint venture must have full and active participation and administration of the contract requirements, so that the Native owners will gain expertise and experience from the job. We also require a copy of the joint venture agreement. If there is a buy-out agreement we want a copy of that too. Our requirements have forced joint venture participants to show their true colours.

We have another policy which defines a Native company to be one which is at least 51 percent Native owned and which has a high percentage of Native employees. The exception to date in this has been a survey company which is 49 percent owned by a Métis person. Legislation in Alberta requires survey companies to be owned by a registered surveyor.

We believe that joint ventures have a place, but they must be more than fronts in which Natives are used only as door openers. We believe that such a relationship must be developmental in nature. That is, a joint venture is created because one partner does not have the capital, expertise, work force, plant, capital or some of the combination of these things. I think venture arrangements will eventually provide Native entrepreneurs with access to these things.

We have been asked a number of times what type of companies or corporations we like to deal with. Of course, our reply is always, well run companies. The question really being asked is, "Do we prefer entrepreneurships, community or band owned, multi-community or multi-band owned?" In fact, we have no preference.

However, based on our experience there are a couple of points I wish to make about Native enterprises that you might find helpful. Occasionally, community or band leaders get upset when their members start a company which competes with a locally owned one, especially if the local entrepreneur wins a bid. Industry cannot be expected to disassociate itself from such companies or to side with one enterprise at the expense of another. Also, it should be stressed, that we like to see continuity of management in locally controlled companies after band elections. An unusual number of staff changes is negatively viewed by contract administrators and buyers.

I have noted on numerous occasions over the past ten years, while working for the Blackfoot Band and for NOVA, that people are often surprised when they see something which has failed in one location prove to be successful in another. I contend that the reason for the surprise is that most non-Natives see us Natives as a homogeneous people: That is, all the same. Whenever anyone makes such a reference, I always say, "You are right." "There are only two groups of people in this world, the Native and the non-Native." "It does not matter where a non-Native comes from — Japan, India, Italy, Hungary or England; they are all the same." They usually get the point, the fact is we are not the same. I have found it helpful to use a model I have developed to assist people to understand what the Native world is like. I call it the "Scrimshaw model."

The Scrimshaw Model

I believe that for whatever the reason, we have divided ourselves into four groups: traditional, transitional, bicultural, and assimilated. I think of traditional Natives as those persons who adhere to the lifestyles and cultural values of the "old ways." For them, the demands and expectations of modern industrial society conflict with their traditional values, such as family and community obligations. Those Native people who are experiencing the trauma of reconciling these two different value options are what I refer to as transitional Natives.

Transitional Natives maintain many of their traditional values and priorities, but at the same time, want to be part of modern society. They are torn between the demands of participating in the wage economy, on the one hand, and

the expectations of their families, friends and communities, on the other. As a result of this, transitional Natives often find it difficult to live comfortably with this dichotomy. I would estimate that transitional Natives form the largest segment of the Native population today.

Natives who function equally well in their traditional cultural environment and in modern industrial society are what I refer to as bicultural. They have reconciled their traditional beliefs and values with those of the non-Native culture.

In this model there is one other group of Natives. These are what I refer to as Assimilated Natives. Assimilated Natives are those Natives who have either lost or rejected their traditional culture and attempt to live entirely within the framework of modern society's values.

Before I proceed, I would like to emphasize that this model is a simplification of a very complex situation. Consequently, Natives do not ordinarily fall neatly into one group or another. More likely they would be described as transitional-traditional or traditional-bicultural, or some other such hyphenated combination. That is why in my illustration of the model, I show the groups overlapping. Further, I do not want to give you the impression that individuals are permanently locked into any one group. Since cultures are dynamic, movement between groups is not only possible, but to be anticipated.

I expect that some of you may be uncomfortable with the labels I have chosen to identify the four groups. I know, for example, that the term "bicultural" may make some of you uneasy because of its special connotation in the Canadian context. If you prefer to substitute another set of labels in your own mind, please feel free to do so, as I do not think that will affect the following analysis.

Application of the Scrimshaw Model

I feel that this conceptual framework has important implications for industry in planning and implementing programs to facilitate Native involvement.

For example, one approach which industry has taken has been to invite Native businesses only to bid on contracts for certain types of work. For example, at NOVA we reserve many of our clearing and revegetation jobs for Natives. It is my opinion that this advantage may or may not act as an incentive to participate in industrial projects, depending upon a Native entrepreneur's cultural orientation.

For traditional Natives, the importance of their traditional lifestyles and cultural values outweighs any benefits they might gain from participating in the competitive business world. They do not want, and will not bid on industrial contracts.

In contrast, transitional and bicultural Natives view restricted bidding as an opportunity to gain valuable experience in preparing competitive tenders. As well, if their bids are successful, they are able to develop their work and management skills, establish a reputable work record, and of course, make some money. However, once bicultural Natives compete for a few jobs and gain experience and confidence, they will want to compete against all comers, Native and non-Native alike.

Assimilated Natives, some of whom may object to being identified as Native at all, are not likely to want to be included in exclusive bid lists, except in tight economic times such as we are presently experiencing.

Taking this approach one step further, industry has also negotiated contracts directly with individual Native busi-

nesses. Native entrepreneurs in all four cultural groups have been involved with industry in this way. In cases where business opportunities conflict minimally with their preferred lifestyles, traditional Natives have been willing to negotiate contracts for certain types of goods and services. Examples which come to mind include providing arts and crafts, participating in environmental research such as estimating fish and wildlife populations, and translating project information or advertisements into Native languages.

Conclusion

The point I would like to leave you with is that it is a mistake to try to force Natives into "one-size-fits-all" programs. A variety of approaches must be taken to ensure that all Native people have opportunities to participate in programs which are specifically designed to accommodate their cultural orientations and preferred lifestyles. In addition, I would like to assure you that industry's goal is not to facilitate assimilation, but to encourage the development of viable, profitable Native businesses, capable of supplying the goods and services we need. The key to all of this is trust, which is an outgrowth of honesty. We must be honest not only with each other, but with ourselves too.

Editorial Supplementary:

Pertinent to the presentations made by Steven J.R. Brant and Roger Boyd on the observations made by the Presidential Commission on Indian Reservation Economies. The commission noted:²

... the BIA controls tribal resource development and, in line with its trust responsibilities, it is inclined to manage for minimum risk rather than maximum return.

Joint ventures with outside firms are a good way to go about this risk-taking and learning experience. However, the BIA does not approve of such ventures, and so the tribes lease out their resources for royalties.

No Indian wants the government to terminate its trust responsibilities, as it has periodically proposed ... the solution is to allow Indians maximal use of their natural resources within the framework of the trust responsibility.

The Federal Government distributes CETA funds to generate employment; the tribes themselves pay out the proceeds of their mineral and other ventures in the form of per capita distributions ... In either case, the individuals become dependent on someone else — the government or the tribe.

What the commission would like to see is the tribal resource income retained as seed capital for economic development and made available to Indian entrepreneurs.

The mind fix of Indian politicians has got to change so they retain the bulk of those resource profits to create capital sources to promote entrepreneurial activities.

If you deregulate the BIA and let Indians manage their resources, I cannot believe a tribe with \$8 billion worth of coal could not borrow \$3 million and do something positive with it.

SECTION I

What Works in Business Management

CHAIRMAN/MODERATOR:

Beth J. Carter, Ministry of Industry and Small Business Development, Victoria, Canada

The Keys to Success In Managing a Small Business

by

Henry Mah
General Manager,
Indian Business Development Services
Edmonton, Canada

There are no secrets to being a success as an entrepreneur. Basic small business principles apply equally to Native and non-Native businesses. Most failures occur because the people involved thought the rules did not apply to them. True, there are some examples of success where sheer luck and determination have kept a business alive but to count on these is a recipe for failure.

In choosing a business, a person should examine first his or her own interests, skills and personality. These should complement the business being considered. Next, the prospective entrepreneur should examine community needs. What kinds of goods or services does the community lack? Then, once the list of business ideas is narrowed down to a few possibilities, these possibilities must be analyzed in detail.

A written business plan is the first step towards successfully establishing a small business. The owner of a small business must be fifty times better than the manager of a large corporation. As a small business manager, he or she must become an expert on everything: finance, personnel, production, quality control and so forth. The business plan should include the following elements:

Market evaluation: What community or market needs will your business serve?

Competition analysis: Are there similar businesses in your community? How will yours be different? What makes for success in your kind of business in other communities?

Personal evaluation: What skills, experience and/or education do you have that will help your business succeed? Will you hire expertise?

Financial evaluation: What will it cost to start the business? What are the monthly income and expenses expected to be for the first year, the second, and third years? What profits or losses are expected over that time? What kind of personal income do you expect from the business?

Only after preparing a complete business plan should financing be sought. The business plan is the best way to ensure success in obtaining loans from banks, and/or grants from government agencies. If the would-be entrepreneur needs assistance in preparing a business plan,

² James Cook, "How to Turn a Reservation Welfare State into an Entrepreneurial Economy: Spitting Into the Wind," *Forbes*, Sept. 24, 1984, pp. 132-137.

then draw on a sound advisor. Small business advisors are available in the private sector and in the public sector via government agencies and community colleges. An advisor will not do a plan for you but will assist you in getting the information you need.

With a complete business plan and sufficient initial financing, the business can be started. The successfully managed small business is one in which the owner knows on a day-to-day basis how much money has come in, what the expenses amounted to and what profit or loss was made. Keeping accurate accounts (no shoe box bookkeeping) is overwhelmingly the key element in small business success. Also important is staying in close touch with customers so as to ascertain their needs and reactions. Training and staff motivation is also important. Again, if the entrepreneur needs assistance with any of these elements, draw on a sound business advisor.

In closing, it is emphasized that the principles of good business planning and successful management are not mysterious. Any business which follows these rules is on its way to success.

A Tribal Government Perspective

by

Roger Boyd

Director of the Navajo Nation Office
Washington, D.C.

The Navajo Tribe of Arizona has a population of 160,000, a land base of sixteen million acres, and an annual operating budget of \$190 million. The Navajo Nation has initiated tribally owned businesses in agricultural, lumber projects and is developing its coal resource in a joint venture with a non-Native corporation.

Despite a resource base that is the envy of less well endowed tribes, the Navajo Nation has realized that the goals of the tribe, to date, have not always been met through business developments. Over the years, the tribe has looked to job creation at the expense of business management capacity. Management expertise has always come from outside. The tribe has realized that simple job creation is not enough to achieve self-sufficiency. In developing its resources in the future, the Navajo Nation plans to create joint ventures with private sector firms that will ensure the development of management expertise among its people. The profits from these joint ventures are to be channelled into a Navajo controlled financial institution to create a capital foundation for Navajo development.

In analyzing its own business management track record, the Navajo Nation has found that there is a need to clearly distinguish between the roles of tribal government and their business enterprises. In the past, there has been a lot of spillover from government into business affairs and the mix has had negative consequences. The Navajo Tribal Government is reemphasizing its role as government with the aim to creating an environment which Navajo owned business can succeed. The Government intends to provide the physical infrastructure together with a legal environment that will encourage the responsible development of tribal resources. Tribal Government will not become directly involved in business management; it will however, regulate development (environmental guidelines, etc.) and through royalties ensure that benefits earned as a result of non-renewable resource development flow back to the

Navajo Tribe. Again, by creating a favourable environment in which business can proceed. The Tribe wants to encourage entrepreneurship among its people. This is the kind of people development that the Navajo Nation is pursuing.

Intergovernmental Relations for Band-Based Business Development in Canada

by

Bill Williams

Principal,

Aboriginal Management Consultants
North Vancouver, Canada

Bands wishing to develop land for either residential or industrial purposes must first deal with the Canadian Federal Government and its administration of the Indian Act. In cases where land held by a band is held in common for all band members, the band council's authority to lease land is limited to five years. Any development involving longer periods of time requires approval of the Federal Department of Indian Affairs and band approval through a general vote among band members before band surrender can proceed. This process can greatly extend the start-up period for a development.

If a band is to receive water and sewer services from an adjacent non-Native municipality in support of development, extensive negotiations often become necessary. Negotiations with adjacent municipal governments for such services can greatly extend the time required to start-up a project on Indian lands.

Indian bands in Canada whose reserve land is held individually on the bases of "Certificates of Possession" have seen land developments proceed to completion more quickly and with greater opportunity for success because of much reduced requirements for intergovernmental negotiation.

Provincial or municipal governments may assert regulatory or taxation authority that can undermine the success of a development. The potential for such overlaps occurring should be investigated as part of development planning. Overlapping jurisdiction often extends the time required to initiate Native developments. Under such conditions, developments are usually implemented most successfully when band governments focus their activities on creating good working relationships with other non-Native governments, and thereby creating a better business environment for development to proceed.

A change of attitude among Native people towards profit making band corporations is sometimes required if Native businesses are to succeed.

Another problem, often is that band government and business management are frequently mixed with usually negative results. A band business started and managed solely to create jobs and without a view to generating a profit can become a drain on band resources and, sooner or later, will collapse. A profit making venture can create jobs and the revenue necessary to maintain such jobs in future.

For bands whose reserve development is retarded either because of remoteness or a limited resource base, band government can play an important role in establishing and maintaining strong links with other levels of government

to overcome these difficulties. For example, the Stuart-Trembleur Band of north-central British Columbia successfully negotiated with the provincial government to expand their forest base by securing a Tree Farm License on off-reserve land.

Fundamentals for Successful Business Management

by

Jack Beaver
Northern Canada Power Commission
Edmonton, Canada

The fundamentals for successful business management are well known, once more if they are not known, they can be learned. The basics include analyzing yourself and your business idea or product. Planning your business and obtaining independent opinion as a check on your plans. Another fundamental is to start small, within the limits of your capability. The successfully managed business expands as its management capacity and capability expands.

One important mechanism through which a band may acquire management skills, and sometimes resources, is by entering into joint ventures with those already operating in the private sector. A successful joint venture enables a band to develop the management capacity among its people so that Native participants can eventually take control of the business and operate it independently. However, it should be cautioned that such arrangements between Native and non-Native enterprises must be undertaken carefully. Both parties should be fully aware of Native intentions to eventually take control of the business and of the role that the non-Native partner is expected to play in fostering Native independence and control.

The essential criteria for measuring success in any business is the size of the figures on the bottom line. If the figures are too small or in the red, the venture simply will not survive. Shoring-up such a business for social purposes, such as job preservation, has its place as a temporary measure. But a business that does not generate revenue, and has no hope of ever doing so, becomes dependent on government financing. Self-reliance flows from independence; to be independent, a business enterprise must generate revenue.

The relationship of social goals and conventional business practices must be seen in a different light when self-reliance has been set as a target. Imposing social purposes on a business venture at the expense of generating a return comes at a price. Paying the price with government money means accepting the "strings" the "restraints" on independence that comes with the money.

Native governments should create a favourable environment for business, not be in business themselves. Governing Native politicians have options available to capture revenues to support social goals. Business taxation could be internalized on reserve; on-reserve businesses could be paying taxes to Native governments. Native governments could establish mechanisms to keep dollars in their communities. Current estimates are that 98 percent of the cash spent on reserves in Canada immediately is drained off to nearby non-Native communities. Money immediately leaving the Native community represents a loss of on-reserve small business development opportunities.

Successful business management on reserves requires mutual support between Native government and Native business. Conflicts in the past have arisen from the involvement of political bodies in the affairs of businesses. A business whose survival is threatened by diversions that detract from the bottom line realities can be expected to resist such interference. Government and business are, in fact, mutually dependent; government provides services to its people, businesses provide them benefits in the form of jobs and incomes.

The Indian way of doing things is as applicable in the corporate setting, as it is in any other setting. While all companies have to operate with profit as the primary objective, there are different styles of managing companies. Business analysts have concluded that particularly successful companies (Japanese firms are an example) are those that manage by consensus. Problems discussed, views exchanged, and actions postponed until all the key players agree on the move. This is the Indian way, and it can be used to ensure success in managing a business enterprise.

SECTION II

What Works in Joint Ventures and Contracting on Major Projects

CHAIRMAN/MODERATOR:

Michael Robinson
Community Programs,
Polar Gas Project
Calgary, Canada

Joint Ventures and Contracting

by

Ron Scrimshaw
Manager, Native Affairs
Nova, an Alberta Corporation
Calgary, Canada

NOVA, with the support of its most senior management has an explicit policy which is "to assist in a practical way the Native community's participation in the growth and development of the industrial resource and utility sectors of the Canadian economy"; a commitment "to working with Native people to assist them in becoming self-sufficient participants in the Canadian economy."

NOVA implements its Native policy in part, via its Native Business Opportunities Program which gives Native businesses the opportunity to contract on NOVA projects. Certain types of work are reserved for Native contractors and NOVA splits large contracts into smaller units which correspond with the capabilities of Native businesses. Native business opportunity officers serve as the Native liaison point with NOVA. They stay in touch with Native businesses, providing maximum lead time to Native contractors so they can mobilize their resources.

NOVA further assists Native contractors to bid on corporation projects by waiving bonding requirements in many cases. It also has designed a handbook for Native enterprises, *Basics of Bidding*, which details how to prepare a contract bid. To widen the opportunities available

to Native contractors, NOVA actively encourages its contributors to subcontract with Native companies. In certain circumstances, the contract has required that Native firms be offered the opportunity to bid.

NOVA maintains and circulates a *Directory of Native Businesses* which describes in full (sans proprietary data) the Native entrepreneurs and businesses with which it is familiar, including those that work with NOVA and its subsidiaries. The purpose of the Directory is to increase awareness of the availability and capability of Native enterprises.

Finally, NOVA supports the development of Native businesses by contributing financial and other resources to the efforts of other organizations in Alberta, such as Indian Business Development Services and the Native Venture Capital Corporation.

Summarizing the results of the Native Business Opportunity Program, it was reported that the NOVA companies have awarded more than 75 contracts to 45 different Native businesses since 1976. As well, NOVA is open to initiatives on joint ventures with Native entities and has been involved in preliminary discussions on some joint venture proposals.

The Implementation of Nova's Native Policy: A Case Study in Native Business Development

by

George Mallett
Native Affairs Coordinator
Husky Oil Operations, Ltd.³
Calgary, Canada

Alexander Manufacturing Ltd., a company owned by the Alexander Indian Band of Alberta, contributed to the construction of the new offices of Husky Oil Ltd. in Calgary. Through a subcontract with a Calgary firm, Alexander Manufacturing assisted in the production of almost 800 wooden doors for the new building. The Husky project was the first major contract for the business of this Company which has just recently acquired new wood-working equipment to diversify beyond upholstered furniture manufacturing.

Husky Oil's analysis of what works in contracting with Native businesses has uncovered several key factors that should be present if a non-Native corporation is to be successful in securing the participation of Native enterprises. The first and perhaps most important of these is a well thought out, written, company wide policy signed by the man at the top that clearly states the company goal of actively supporting Native businesses. Specific objectives that contribute to achieving this goal also should be laid out before taking action.

Having established that certain work should be directed to Native businesses, the non-Native corporation must select the right firm for the job. It must seek out Native firms and contact them about the work. It also must assess the capabilities of the Native enterprise, as to physical equipment and personnel, and be available to assist the Native firm prepare to undertake the work.

³ Husky Oil is a subsidiary of NOVA.

In assisting the non-Native business to secure a contract, the non-Native corporation must be flexible. Expectations of what a Native company can do may have to be modified in order to match reality. The non-Native firm also should be prepared to provide management assistance as necessary to help the Native company achieve its goals and get the project off the ground.

At the very least, the non-Native corporation must be prepared to pay a reasonable premium to assist Native companies. In the case of the Husky contract, the doors cost twenty dollars above normal and the guarantee periods were shortened. Any costs to Husky were offset by the benefits to Alexander Manufacturing. The firm expanded the capabilities of its employees through training and experience on new machines; its management used the Husky contract to leverage the acquisition of new resources to meet its goals.

The final step in successfully initiating and implementing Native contracting is for the managers of both the corporation and the Native business to conduct an after contract completion follow-up to analyze what went right and what went wrong. This last step provides valuable information that lays a foundation for helping to ensure future success.

Native Involvement Petro-Canada Development in the Northwest Territories

by

Doug Bruchet
Manager, Socio-Economic
Assessment, Petro-Canada
Calgary, Canada

Petro-Canada as a major company operating in the north is fully aware of its responsibilities to northern residents in general and to the Native people in particular. Although there are many examples that can be used to demonstrate the width and depth of this concern, perhaps the best is our Norman Wells Project in the Northwest Territories. Therefore, most of my remarks here today will center on this project.

Petro-Canada from the outset recognized that the Norman Wells Project would require special attention to ensure that northern residents would share fully in the benefits from this project. Since the majority of the population on the McKenzie River Delta Basin are Native, the most senior level of Petro-Canada's management made a policy commitment to actively encourage Native involvement. This commitment as currently practiced by the Company is influenced from two directions. First, and most importantly from a Company perspective, it is influenced by the considerable efforts of Petro-Canada itself. Second, it is influenced by forces external to the Company.

With respect to the latter the outside influences include provisions set out in the exploration agreement. As some of you may be aware, the Norman Wells Project, because of its location is regulated by the Canadian Oil and Gas, Land Administration (COGLA). Under the terms of the exploration agreement between Petro-Canada and COGLA, northern participation in the project is required. Targets for northern employment, training and business opportunities are set and reviewed annually. The main

purpose of course, is to provide employment opportunities for northerners. However, as already suggested above, in practice most of the benefits accrue to the Native community, because the majority of the population is in fact Native.

More recently, other outside influences have served to reinforce even more the need for Native participation. As a result of land claims settlement, the Committee of Original Peoples Entitlement (COPE) has been formed. This Native governing authority serves to stress Natives as opposed to northern employment on what is referred to as COPE lands. The influence of COPE is not limited solely to COPE lands, but also serves to emphasize the need for Native participation throughout the MacKenzie River Delta Basin. Native sharing in the ownership of Petro-Canada drilling rigs both increases the Native community's ability to increase Native participation in development and helps to ensure that Natives share in the benefits that flow from the project.

Aside from the commitment to Native involvement by senior management, there are a number of positive steps that Petro-Canada has taken to ensure greater Native involvement in Company affairs. The main one is what could be referred to as a two-sided awareness program. Included in this program are staff courses designated to give employees greater awareness of Native issues. As part and parcel of this, visits to northern Native communities are arranged so that staff are able to gain first hand knowledge on the needs, aspirations, and concerns of Native northern residents. It is felt that such efforts both serve the needs of the Company by improving on its management capabilities, but also serves the interests of Native people.

Another phase of the awareness program is the great deal of effort put into making Natives aware of the Company's future needs. Such efforts include informing Native residents about employment opportunities anticipated within the Company in future. Native business leaders are informed about the goods and services that Petro-Canada expects to be buying both in the short and long-term future. Manuals have been prepared outlining how Native business should interact with larger non-Native corporations, and how to bid for contracts with Petro-Canada.

Petro-Canada also creates employment and business opportunities for Native people through the administration and negotiation of contracts. For example, all business contracting with Petro-Canada are expected to demonstrate northern participation. Non-Native firms are told that bids which involve Native participation as part of their proposal are given a competitive advantage over those that do not. In one case, a four year lease purchase contract with a Native drilling business was made in such a way, so as to effectively amortize the costs of the equipment to do the work over the life of the contract. In other words, Petro-Canada was effectively guaranteeing that the Native firm could buy the equipment needed to do the work required under terms of the contract, and at the same time ensuring the firm would own the equipment when the contract was completed.

Petro-Canada's efforts on behalf of Native people have raised both operational and unique political problems. Operationally, we have had to develop mechanisms to overcome the seasonal and short-term nature of petroleum exploration activity. Politically, our Company has been under pressure to make sure that our policy for northern participation is not limited solely to Natives. In

practice, Petro-Canada has recognized that in order to operate effectively in the northern environment, efforts have to be made to ensure benefits generated by the project flow to those that reside in the north. Petro-Canada's work on behalf of Natives in the north is an intrinsic part of this effort. It has worked well thus far and it is anticipated that it will continue to work well — even improve — in the future.

Joint Venture Agreements Between Native and Non-Native Businesses:

by

Simon Sparklingeyes
Tribal Chiefs Association
Goodfish Lake
Alberta, Canada

The Tribal Chiefs Association represents six Indian bands, who together occupy a territory near the Cold Lake Oil Sands Development. A seventh band is expected to join the association in late 1984.

My group has recently entered into a joint venture agreement with Esso Resources for the operation of an oil industry service rig. Under terms of the agreement, Esso personnel are to manage the operations of the service rig for three years. During these years, Esso is committed to training Native managers and operators. At the end of the three year period, the operational aspects of the business will be solely in Native hands. After five years, Natives will take over entirely from ESSO personnel, assuming total responsibility for all phases of this operation.

As could be expected, there are many obstacles to be overcome before it can be concluded that these joint managements will produce the desired results. Both Natives and non-Natives alike, have attitudes that could impede success. Both principals to the agreement have policies that might have to be adjusted before success can be assured. Nonetheless, if each side has a desire to proceed, if the agreement is proceeded with in good faith, and care is taken to build trust based on our experience over the life of the agreement, both parties should benefit by participating jointly in the business venture.

SECTION III

What Works in Business Financing

CHAIRMAN/MODERATOR:

Steven J. Brant
Brant and Brant Native Development Consultants
Ltd., Deseronto, Ontario, Canada

WORKSHOP FORMAT:

This workshop focused on three potential sources of business financing: chartered banks, venture capital firms, and government agencies.

Venture Capitalists and Their Role

by

Lester Lafond
President,
D.C. Venture Capital Corporation
Saskatoon, Canada

Venture capitalists do not make loans, they provide equity capital. They invest in a business, becoming a partner that shares in both the risks and profits of an enterprise. By the very nature of the business, venture capitalists usually become involved in high risk situations. As a result, the venture capitalist usually looks for a high rate of return before investing in a business.

Perhaps the best way to look at a business from a venture capitalist's perspective is to view business ventures according to their stage of development. These are: (1) the pre-feasibility stage, (2) the development stage, (3) the expansion after start-up stage, (4) the growth stage, (5) the leverage buy-out stage, and (6) the turn-around stage. Stages (2) and (6) generally are not of interest to venture capitalists. However, all others are in examining the feasibility of becoming involved. In each of these other four stages, the venture capitalist looks for the following:

- The potential for a high growth and profit.
- The effectiveness of existing management.
- The potential for industry leadership.
- A large market base.

When examining the venture capitalist's role with respect to Native businesses, it should be pointed out that up until very recently Native entrepreneurs usually leaned towards independence. The Native business did not seek to become involved in a partnership. As a consequence, most Native owned businesses are either at the pre-feasibility or development stages without a track record in venture capital financing. It is difficult, therefore, to make specific unqualified pronouncements about the appropriateness of venture capital financing for Native businesses. Nonetheless, it is possible to outline what generally works when financing a business with venture capital assistance.

A critical element to the success of any business is adopting a "business-like" manner or attitude. The basics of good business management is the bottom line approach. Successful venture capital financing requires this same business-like attitude with close attention to the bottom line.

While venture capital financing has some disadvantages, such as a shared contract through partnership, it also offers some very distinct advantages. These advantages for Native firms, as for others, goes beyond the mere injection of funds. For example, it should be kept in mind, that although the business capitalist takes a share in your business, the business capitalist also shares in the risk. The business owner retains ownership of the works and the business remains your business. This is important to both the owner of the firm and the venture capitalist because it is recognized that the owner, who maintains control of the firm, takes more pride and works harder than would otherwise be the case. Pride of ownership and hard work are both important elements in the successful operation of a business.

Given the complexities represented by the array of agencies and authorities with which Indian businesses

must deal, an entrepreneurial business structure seems to offer the best potential for success. An incorporated business, separate from band government and managed by entrepreneurs with an eye to the bottom line, can keep the competitive edge that can make the difference between success and failure.

To summarize, successful financing through venture capital creates a partnership, "a marriage" in which there is a complementary "fit" between the parties to the management of a business, and agreement on goals and a bond of mutual understanding and trust between partners.

Venture Financing: A Bankers Perspective

by

Harold McBain
Vice-President, Native Banking,
Northlands Bank
Calgary, Canada

The Native Banking Division of the Northland Band operates nationwide and its services are available throughout Canada. The Northland Band does not make "soft loans" to finance the start-up of businesses. As with any other banking institution it makes loans as an investment that is meant to be profitable for both parties. Banks are venture capitalists only by accident. Ordinarily, bankers do not become directly involved in the affairs of a business.

From the viewpoint of a lender, there are two significant problems confronting most small and medium businesses that require outside financial assistance. One is undercapitalization and the other is an absence or lack of financial management skills.

With respect to the former, it should be recognized by those seeking financial assistance through a bank, that a certain capital base has to be present before a loan is considered. Venture capital firms offer one means of injecting funds into a business if an owner does not possess such a base. While some owners resist the notion of "sharing" a business this way, it is better to have a smaller proportion of a big pie than 100 percent of nothing.

The latter of the two significant problems noted above, refers to the fact that many businesses are weak in terms of having people with the necessary financial skills to operate efficiently. In some situations these necessary financial skills are totally absent. A lender will not invest in a business that lacks or is weak in this critical management skill. In recent decades, bankers have been "balance sheet lenders" but the recession's devaluation of capital assets has changed this thinking. Bankers are now "cash flow lenders" who need to be satisfied that a business will generate sufficient income to service a loan. Moreover, the owner of the business has to have the financial skills necessary to manage that income.

It goes without saying, therefore, that understanding the perspective of the commercial lender will contribute to the success of a loan application. The lender requires that there be recoverable assets (cash, equipment, and the like) so that the lender has some protection in the event the venture fails and the loan is not paid. It should not be considered a personal attack, if approval of the loan is conditional on the borrowers having an accountant or obtaining a financial advisor. The vast majority of small busi-

nesses do not have this type of assistance, and the lender does need some assurance that the borrower has the competence to repay the loan.

The successful loan application is supported by a thorough business proposal which includes:

- the rationale for the venture (i.e. why start the business or expand it),
- market projections,
- cash flow projections with a rational contingency built-in,
- summaries of the background of the people involved in the business.

After a loan has been approved, a business obligation to the lender does not end. The borrower has a responsibility to make the loan payment on time, keep the banker informed on how the business is doing, provide regular reports on the cash position of the enterprise and report any problems that affects the performance of the operation. It should be remembered that lenders often can help a business to get out of trouble if they are alerted about problems early enough.

In closing, it should be stressed that today's bad loans were yesterday's good loans. All loans are good loans to start. The key to success in venture financing via a bank is for the lender and borrower to monitor the business's finances together. The successful business owner in this way gains the lender's confidence in his or her ability to manage the business, and in doing so, improves the borrower's ability to obtain financial assistance in future.

The Federal Native Economic Development Program⁴

by

Bertha Joseph and Brian Payer
Federal Economic Development Program
Vancouver, Canada

The Native Economic Development Program (NEDP) was established in April of 1984. The purpose of the Program is to assist economic development and self-reliance among Canada's aboriginal people. The Program is funded at a level of \$345 million over the four year period to 1988. The fund is managed by an Advisory Board that is comprised of twenty members. Sixteen of the twenty are Native business and development leaders from across Canada. The NEDP is open to applications from all Native persons — status and non-status Indians, Métis, and Inuit.

The NEDP is comprised of four elements. The first of these is the Native financial institutions element. The purpose of this element is to create self-sustaining funding

institutions that are controlled by Native people. Such financial institutions provide greater funding access to Native people, and at the same time, improve Natives' ability to generate wealth. Under the provisions of this element, an eligible institution may be national, provincial, regional or local in scope and must be an incorporated entity in compliance with all relevant federal or provincial legislation. Furthermore, the institution must be owned or controlled by Native people. The articles of incorporation must indicate that the institution is to operate to facilitate the development of Native businesses, industry and commercial enterprises.

Activities eligible for funding include: 1) providing business advisory services to Native entrepreneurs, 2) providing financial services to Native entrepreneurs, 3) establishing, expanding, or modernizing a commercial operation which is Native owned or controlled, and 4) Native acquisition of any commercial operation, under certain conditions.

The amount of funding made available is to be assessed against a number of criteria which include:

- management capacity and management plan,
- demonstrated potential to be self-sustaining or profitable,
- financial management capacity and plans,
- detailed business plan based on a five year projection,
- market evaluation or demonstrated need for proposed services and investments,
- community support,
- degree to which other sources of funding will become available as a result of a contribution by the NEDP.

The second element, provides assistance for community based economic development projects. Likely candidates for funding include isolated or resource poor communities. Communities that are starting from "scratch."

The third element is the special projects segment. Under the provisions of this section funding assistance can be provided for special projects that will have a significant positive impact on Native development. Funding under this element is meant to cover those special situations where assistance is required to capitalize on opportunities that might otherwise "slip by."

Under the auspices of the fourth element, the NEDP can provide funding for coordination. The purpose here is to provide Native people with access, through the NEDP, to other federal programs.

In closing, we would like to stress that NEDP was established specially to assist Native people. The purpose is to facilitate Native independence. Please do not hesitate to contact our office in Vancouver if we can assist you in realizing self-sufficiency and independence through sound economic development.

⁴ See Dave Walkem's presentation in the Forest Resource Section, pp. 121-123.

WORKSHOP DISCUSSION SUMMARY

Business and Corporate Development Strategies: Native Corporate Structures: Perspectives on Choices

SUB-THEME #2

The business and corporate strategies workshop was divided into three sections: (1) Business Management, (2) Joint Ventures, and (3) Financing. The focus of the discussions and presentations in each of the three sections was on "what has worked." Insofar as the workshop participants came from a number of different locations throughout North America, the experiences vary quite considerably. For example, it was seen that in the United States the Navajo Tribal Government administers a self-government program which encourages joint business development on their reservation by combining traditional values and contemporary technology with what are perceived as Navajo values.

In Canada, unlike the Navajo experience, a large number of Native groups are reluctant to actively encourage business development in consort with non-Natives. Many appear to be reluctant to adopt the attitude, the orientation, that is commonly accepted as necessary to compete effectively in the wider business community. Whether this is a basic difference between the experience in the United States and Canada is not clear from the workshop discussions. What is clear, however, is that in both the United States and Canada, there is widespread feeling that if Native people are to achieve self-sufficiency and independence, then a healthy economic base has to be established through the development of Native controlled business enterprises. The successful development of Native controlled business enterprises depends directly on the Native people gaining greater access and control of their land and resources.

In both Canada and the United States the necessary infrastructure to support the development of Native commercial enterprises, at least partially, has been established. Financial institutions and business development agencies, that are dedicated to the creation of Native business enterprises, are in existence. Some large and medium companies have developed programs that are especially designed to increase Native participation in business. Governments in both the United States and Canada have established agencies that are charged with the responsibility to see that Natives have access to the help necessary to facilitate independent Native business development. *The Native people themselves in both countries operate numerous Native businesses that are competing successfully in a wide range of commercial activities.* So while there remains a considerable amount that must be done to ensure that North American Native people become active participants in the business activity of the United States and Canada, there is every reason to believe that with some adjustment, Native citizens can look forward to even greater success in achieving a higher profile in business in future.

As revealed by the workshop discussion, it would appear that the greatest single impediment to Native business success is a failure among Native authorities to dis-



Delegates in Session

tinguish between business imperatives and social necessities. It was noted over and over again in the various sections of the workshop, that when a band allows what are perceived as social responsibilities to interfere with sound business principles, the results are practically always negative. Native governments should operate separately from those who manage and operate businesses. Native governments should create an atmosphere favourable to business using the various options available to them to capture the revenue necessary to finance social programs. Those responsible for managing and operating a business should, make all their decisions with a view to what is best for its long-term success and survival. A business that does not succeed because of poor business practices, regardless of how well intentioned the reasons for not adhering to sound business practices, merely tends to frustrate Native efforts to achieve self-sufficiency and independence over the long-term. Moreover, such practices seldom result in solving social problems.

Related to this, is the concern raised in the workshop over the sources that should be used to help finance Native businesses. Native entrepreneurs, like all entrepreneurs, should keep in mind that the sources used to finance a business has a direct bearing on the amount of independence the borrowers will have in operating their enterprise. Many Native groups resist becoming involved in joint ventures with interests outside of their own band or community. The primary reasons for this resistance usually results from the recognition that a partnership virtually always results in some loss of independence or control. However, as was pointed out in the workshop, the financing of a business, no matter the source, practically always results in some loss of control. The price paid with respect to government money often is greater, and the advantages less, than if funding is obtained in the private sector through a bank or even a joint venture capitalist.

The specific items that were identified that will engender a greater degree of success in establishing a business are:

(A) Starting small, within the limits of the capabilities and capacity of those initiating the business.

(B) Developing a business plan which sets out goals that realistically take into account the market conditions and competitive situation that can be anticipated in both the geographic area and in the industry in which the firm will operate.

(C) Preparing a strategy for acquiring the skills, experience and help needed to make the business succeed, as identified in the business plan (noted in (B) above).

(D) Conducting a financial evaluation, that identifies potential sources of funding, the monthly revenues and expenses anticipated over the first year (including the owner's salary). Preliminary estimates on the projected profits and losses over a five year period should be included in the evaluation.

The following summarizes the discussions and presentations in the Business and Corporate Development workshop:

(1) There are many examples of successfully operated business enterprises throughout North America. Native people are functioning successfully in all aspects of the business world.

(2) The most outstanding examples of success are in situations where those involved in business, own or have access to a substantial resource base. The resource base attracts non-Natives to invest in on-reserve commercial ventures and provides Native entrepreneurs with access to the funding necessary to finance business activities.

(3) Native independence and self-reliance is critically dependent on Native people obtaining greater control over the management and disposition of their resources.

(4) Small business development provides the best opportunity for success in achieving such an economic base. This is particularly true for Native people, where a shortage of skills training and personnel development often limits the Native community's ability to become involved in large-scale enterprises.

(5) If Native people are to achieve greater independence and self-reliance, a healthy Native economic base has to be established.

(6) Government, the Native people themselves, and private industry have established a wide variety of agencies and programs that are specifically designed to increase Native business opportunities. Once again, however, the success of these efforts are often limited by: (i) restrictions on the control that Natives have over their resources, (ii) the negative attitude that some Native people have towards business, (iii) the unrealistic constraints often imposed on Natives as a result of rigid interpretation of government regulations, and (iv) an absence of the skills, training, and experience necessary to successfully operate a business enterprise.

(7) Native people should examine more carefully the many benefits that result from obtaining business financing in the private sector. They should be more aware of the costs, in terms of lost independence, of receiving financial assistance from the government.

(8) Native people should demonstrate a greater willingness to participate with non-Natives in joint business ventures, that benefit both the Native and non-Native partners. From a purely Native perspective, joint venture arrangements can provide access to financial resources as well as to scarce talent and business skills.

(9) As part and parcel of the concept of joint business ventures, Native entrepreneurs should clearly set out the rules and their expectations for their non-Native partners. This will help eliminate future disappointments, and at the same time provide the assurances necessary to encourage outside investments and participation.

(10) The imperatives of establishing and operating a successful business enterprise are the same for Natives and non-Natives alike. Failure to adopt sound business principles ultimately results in bankruptcy. Therefore, it is considered absolutely essential that Native government operate separately from business.

(11) Native government should create a favourable business environment which attracts outside investment. Native government should provide the necessary infrastructure (sewage, water, etc.) and encourage the responsible development of Native resources. Social expenditures should be financed from funds acquired through commonly accepted mechanisms. Business managers should make all their decisions with a view to the long-term success and survival of the enterprise. While a solid economic base will result in improving the quality of life among Native people through time, this can be accomplished only if individual Native businesses are successful over the long-term.

(12) Non-Native government agencies, both provincial (state) and federal have a responsibility to remove regulations that unnecessarily hinder Native business development.

(13) Consideration should be given to amending regulations to allow Natives to use their assets as collateral for making business loans.

(14) Government employees have a responsibility to interpret legislation in a way that is consistent with the intention of those who drafted the legislation and not in ways that frustrate individual initiative.

(15) Private non-Native companies should be encouraged to gain a better understanding of Native business aspirations, and to establish in writing, policies that actively support Native participation in their businesses. This is particularly true of companies that operate in northern or remote areas where employment opportunities are scarce and Native people tend to reside.

CONFERENCE SUB-THEME 3

WORKSHOP OUTLINE

WORKSHOP TITLE:

Fisheries and Aquatic Resources

CHAIRMAN:

J.R. (Ron) MacLeod, Department of Fisheries and Oceans, Vancouver, Canada

RECORDING COORDINATOR:

Howard Paish, Howard Paish and Associates, Vancouver, Canada

WORKSHOP PROGRAM COORDINATORS:

J.R. MacLeod,

William F. Sinclair,
Department of the Environment,
Vancouver, Canada

WORKSHOP FORMAT:

The Fisheries and Aquatic Resources Workshop was divided into three phases:

The first was the panel presentations made by experts with practical experience in Native related fisheries allocations and development programs throughout North America. The second and longest phase was devoted to an open discussion among delegates on all aspects of Native fisheries, on the progress in achieving self-reliance, the identification of opportunities. In the third and final phase, the recorders and delegates reviewed the discussions, summarized the main concerns, and prepared a report for presentation to conference delegates during the final day of deliberations.



Left to Right: Howard Horton, Bill Sinclair, Ron MacLeod, Doug Ancona, Lonnie Hindle, Geof Robbins, George Hunter

FISHERIES AND AQUATIC RESOURCES

PANEL PRESENTATIONS

Northwest United States Indian Fishing Rights: Multi-Jurisdictional Resource and Harvest Management Problems and Solutions

by

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I History of the Treaty Rights

A. THE TREATIES

1. Under treaties negotiated in the late 1800s, 22 northwest Indian tribes residing in the Pacific northwest ceded lands to the U.S. Government and reserved to themselves rights to fish on and off the new reservations at usual and accustomed (U & A) fishing places "in common with" other citizens. These places were primarily in Puget Sound and Washington coastal streams and rivers.
2. Similar treaties were negotiated with four tribes who fished in the Columbia River, which forms the border between the states of Washington and Oregon.

B. TREATY ADMINISTRATION CONTROVERSY

1. In the early 1970s, concerned that the State of Washington was over regulating tribal fisheries so as to prevent them from obtaining a fair share of salmon under the treaties, the United States, as trustees to the tribes, sued the State of Washington (*United States v. Washington*).
2. A similar suit was brought involving the four Columbia River tribes and the states of Washington and Oregon (*Sohappy v. Smith* also referred to as *United States v. Oregon and Washington*).

C. JUDICIAL FINDINGS

1. *United States v. Washington* The Boldt Decision. The Court held that the 22 Pacific northwest tribes were entitled to share in common with other Washington residents (i.e. 50 percent), those salmon runs which would, absent prior interception, return to tribal U & A fishing places.
2. *United States v. Oregon and Washington* The Beloni decision. A similar finding that the four Columbia River tribes were entitled to a fair share of the resources was made and a five year settlement agreement was negotiated with Oregon, Wash-

ington, the tribes, and the United States.

3. *Other Findings*. The right of many tribes to regulate tribal fishermen off the reservation was confirmed subject only to State regulation where necessary to conserve the resource. The court did not address the authority of the U.S. Government to regulate the tribes in these areas, although, at the present time, there is concurrent Federal/ tribal regulation of tribal ocean fisheries.

II Two Impediments To Implementation of the Courts' Decision

A. MULTI-JURISDICTIONAL MANAGEMENT OF SALMON (FRAGMENTED MANAGEMENT)

1. Due to the often extensive geographic migratory pattern of anadromous fish, many are, at different times in their life cycle, subject to management of a number of different management entities, some with different and/or conflicting management strategies.
2. Example: Chinook salmon of Columbia River origin are subject to management by:
 - a. One or more Indian tribes who fish on the Columbia River.
 - b. One or more Indian tribes who fish in the northeast Pacific Ocean off the coast of Washington.
 - c. The State of Oregon.
 - d. The State of Washington.
 - e. The State of Alaska.
 - f. The State of Idaho.
 - g. The Canadian Federal Government.
 - h. The Pacific Fishery Management Council and the Secretary of Commerce for the United States when the fish are outside three miles in ocean waters off the coasts of Washington and Oregon.
 - i. The North Pacific Fishery Management Council and the Secretary of Commerce for the United States when the fish are outside three miles in ocean waters off Alaska.

B. MIXED-SPECIES NATURE OF THE OCEAN SALMON FISHERIES

1. Fisheries in ocean waters off Washington, Oregon, British Columbia, and Alaska are largely non-selective fisheries which cannot distinguish among different species or runs of salmon until the fish are caught (included are five species of salmon [pink, chum, sockeye, chinook, coho] and several runs [spring, summer, winter, fall] of each species).
2. For this reason, avoidance of weaker runs of salmon which are in need of conservation and re-

habilitation is often difficult, if not impossible, unless the harvest of stronger runs is also foregone and their economic value lost.

III The Dilemma of Managing The Ocean Harvest of Mixed-Species Species Salmon Fisheries (Law vs. Practical Reality)

- A. In a lawsuit which followed the original Boldt decision, a federal court found that the United States as well as the State of Washington must manage ocean as well as river salmon fisheries to enable the tribes to harvest up to 50 percent of *each run of each species* of salmon returning to their U & A places, rather than 50 percent of all runs in the aggregate (*Hoh Indian Tribe, et al v. Secretary of Commerce*).
- B. To many ocean fishermen this decision spelled the end of economically viable ocean fisheries; to fishery managers it posed an impossible management task; to many tribes it presented a dream which might be impossible to realize.

IV Approaches To Solving the Dilemma

A. CONTINUED LITIGATION

- 1. The Courts retain continuing jurisdiction in *United States v. Washington*, *United States v. Oregon and Washington* and *Hoh Indian Tribe, et al. v. Secretary of Commerce*. In the two former cases, the Court is assisted in resolving technical disputes by a technical advisor. In two of the suits the parties are negotiating (*Hoh*) or renegotiating (*United States v. Oregon and Washington*) long-term settlement agreements.
- 2. However, the amount of time spent by the courts in resolving questions of interpretation of prior judicial decisions and questions of the legality of certain state-tribal regulatory actions, has not been reduced significantly.

B. NEGOTIATIONS (COURT-ORDERED AND OTHERWISE)

- 1. *Intertribal* Often at their U & A places some tribes intercept fish which are bound for other tribes' U & A areas, thus depriving the latter tribe of its 50 percent harvest opportunity.
- 2. *State and Tribal* As noted above, both the states of Washington and Oregon are working closely with several tribes involved to produce meaningful long-term agreements to resolve the problem. Alaska is not yet involved in these negotiations. California salmon fisheries do not take salmon in which the tribes have a legal interest.
- 3. *Federal, Tribal, and State* Many negotiations involve the U.S. Government as manager of the ocean salmon fishery beyond three miles off the coast of Alaska, Washington, Oregon and California and as co-manager of several river fisheries.
- 4. *International* Although it is not yet ratified, negotiations for the governments of Canada and the United States have developed a proposed treaty which is being considered currently in effect which is limited in its coverage both geographically as well as to species managed under it (pink and sockeye salmon only). Ratification of this treaty is considered by many to be crucial to the

successful resolution of multi-jurisdictional management and multi-species harvest problems.

C. JOINT EFFORTS TO REHABILITATE RESOURCE AND RESTORE HABITAT

- 1. Most state, tribal, and Federal Government entities in the United States which are responsible for managing and conserving the salmon resource agree that money and effort are well spent in restoring the salmon's spawning habitat degraded by mining, logging and hydro development, and reducing the destruction of both adult and juvenile fish by hydroelectric facilities (dams) as the fish migrate to and from their spawning grounds.
- 2. *Confederated Tribes and Bands of the Yakima Indian Nation, et al. v. FERC*: Recent litigation brought by the Secretary of Commerce, the Yakima Indian Nation and the State of Washington has required the U.S. Federal Energy Regulatory Commission to more fully consider the impacts of dams on fish when deciding whether to relicense hydroelectric facilities.

V. Postscript: Non-Treaty Indian Fishing Rights

- A. The scope of the rights to fishery resources of United States Indian tribes who have no treaties with the U.S. Government have not been defined.
- B. Many authorities believe the nature and scope of the right is circumscribed by the purpose for which the tribe's reservation was created.
- C. Whatever the scope of the right, the solution(s) to any resultant problem(s) will likely be among those listed above.

Impacts of the Boldt Decision Fish Allocations on the Columbia River¹

by

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The indigenous people of the Pacific northwest fished for salmon (*Oncorhynchus* sp.) and steelhead (*Salmo gairdnerie*) in the Columbia River and its tributaries for more than 9,000 years before the arrival of significant numbers of non-Indians. By 1805 the Columbia Basin held an estimated 50,000 people whose annual catch of salmon computed to 18 million pounds — significantly more than is taken today by the combined sport and commercial fishers.

The first salmon cannery appeared on the Columbia Basin in 1866 and marked the beginning of over 100 years of rapid change in the abundance and character of the salmon fisheries. Over fishing by both non-Indian and Indian fishermen, together with agricultural and land use changes, rapidly reduced the abundance of salmon during the early 1900s. Beginning in 1933 the development of hydropower and continued habitat degradation further eroded the vitality and existence of the salmon runs. By the mid 1970s the great river had been harnessed and abused and the runs of salmon were severely diminished.

Indian Fishing Rights

Indian fishing rights and opportunities suffered along with the stock of salmon. Even though the U.S. govern-

¹ See also Janet Harper Paper pp. 74-75.

ment had signed treaties with the various tribes guaranteeing them the right of taking fish "at all" usual and accustomed stations, in common with the citizens of the United States, off-reservation harassment was common until the early 1970s. In 1969, Judge Robert Belloni ruled in *Sohappy v. Smith* that the Columbia River tribes were entitled to a "fair share" of the anadromous fish resource. Judge George Boldt ruled in *United States v. Washington* that the Puget Sound tribes were entitled to 50 percent of harvestable fish. In 1977, the courts defined the treaty "fair share" for the four Columbia River tribes (Nez Perce, Umatilla, Warm Springs, and Yakima) as 50 percent of the fish destined to pass above Bonneville Dam.

In the October 1969 decision in *Sohappy v. Smith*, Judge Belloni identified the limit of the states' power to regulate Indian treaty fishing under the regulations to one where: (1) it must be necessary for conservation, (2) it must not discriminate actively or passively against Indians, and (3) it must meet special "appropriate" standards to protect the treaty fishery. More specifically, Judge Belloni held that a state may use its police power only to the extent necessary to prevent the exercise of the treaty right in a manner that would imperil the continued existence of the fish resource. Judge Belloni also ruled that the state cannot so manage the fishing that little or no harvestable portion of the run remains to reach the upper portions of the river where the historic Indian fisheries are mostly located. Judge Belloni ruled further that the state regulations must give protection to the treaty right to take fish at the Indians' usual and accustomed places co-equal with the conservation of fish runs for other users. And finally, the Judge ordered the States to give the tribes appropriate notice and an opportunity to participate meaningfully in the rule-making process.

During the next eight years, the states and tribes frequently sought clarification in the Courts of the Belloni standards established in *Sohappy v. Smith*. In August, 1975, the Yakima Nation (with U.S. support) sued to restrain the States from allowing lower river fisheries until the Indians were assured their share of the harvestable fish. Judge Belloni ordered the states to establish sufficient escapement to ensure preservation of the resource and to guarantee the treaty Indians an opportunity to harvest half of the fall run of chinook which would pass their fishing sites if there were no down river or marine non-Indian fisheries within the concurrent jurisdiction of the two states. He then stayed the order to allow the parties to develop a comprehensive plan. After extensive negotiations, the plan was signed by the parties and approved by the Court in February 1977.

A Plan For Sharing

The document was called *A Plan for Managing Fisheries on Stocks Originating From the Columbia River and Its Tributaries Above Bonneville Dam*. The purpose of the plan was to maintain, perpetuate and enhance anadromous fish and other fish stocks originating in the Columbia River and its tributaries above Bonneville Dam for the benefit of present and future generations, and to ensure that the Nez Perce, Umatilla, Warm Springs, and Yakima tribes are accorded the opportunity for their fair share of the harvest by the non-treaty user groups.

The parties pledged to work cooperatively to maintain the present production of each run to rehabilitate runs to their maximum potential and to work towards the enhancement and development of large and additional runs

where biologically and economically feasible.

The plan prescribed sharing formulas on each stock of fish and specified that any deficits should be made up within a five year time frame. The plan provides for Indian ceremonial and subsistence fishing, and specifies that hatchery salmon and steelhead released to main or restored runs above Bonneville Dam were to be shared.

The plan established a Technical Advisory Committee (TAC) to develop and analyze data pertinent to the agreement including calculations of run sizes for all fish species, ocean catches, escapement goals, catch allocations and adjustment, dam losses, habitat restoration, and hatchery rearing programs. The Committee was to make recommendations to the managing fishery agencies to assure compliance with the allocations in the agreement. The Committee was comprised of scientists representing Oregon, Washington, Idaho, the Nation's Marine Fisheries Service, the U.S. Fish and Wildlife Service, and each Indian tribe.

It was agreed that upon 30 days written notice by any party, after five years from date (February, 1977), the comprehensive plan may be withdrawn or renegotiated to assure that the terms set forth represent current facts, court decisions, and laws.

Present Status

In the fall of 1982, the Yakima and Umatilla tribes served notice to withdraw from the plan. Judge Craig said that he would consider the plan as still in effect until a new or revised plan was negotiated. In the fall of 1983, he ordered the parties to initiate negotiations to draft a new comprehensive plan. In the event an agreeable document could not be worked out, he requested independent documents from which he would work out a compromise plan. The parties asked me to chair the negotiations because I represent neutral ground. We have met in committee fifteen times and exchanged over 42 separate documents. Our deadline has been extended three times with the latest one being on August 15. Judge Craig is temporarily incapacitated, we are embroiled in fall salmon seasons, and progress has slowed to a snail's pace.

Currently fish allocations on the Columbia River are determined by regulations established by the Columbia River Compact. This Compact between Oregon and Washington was ratified by Congress in 1918 and remains in effect today. It calls for uniform and mutually agreeable laws for the regulation, protection, and preservation of the fishery resources of the Columbia River. Tribal input is through the TAC which gives testimony in a public hearing before the Compact. Whenever representatives to the TAC cannot agree on a joint recommendation, the parties may give separate reports to the Compact. The tribes claim to self-regulation is generally accomplished within seasons or guidelines established by the Compact. Whenever the tribes disagree with the Compact regulations, they seek redress through the courts to overturn the Compact laws.

Progress To Date

The major failings of the allocation system to date are that there is a lack of meaningful input by the tribes to the fish regulatory process. Their input is of the same status as public testimony. The Columbia River tribes have not been fully compensated for fish caught in the ocean outside the jurisdictional (Canadian and Alaskan fishermen take about twenty to 40 percent of the up river chinook each year) boundaries of Oregon and Washington. Also,

the state and federal agencies have not shown a full commitment to the reprograming of lower river, mitigation stocks, to sites above Bonneville Dam.

On the other hand, the tribes have been assured of a fair share — 50 percent or otherwise by special agreement — of the adult fish which enter the Columbia River and are destined to return above Bonneville Dam. The tribes are full members of the parties involved in negotiating a new fishery management agreement for the Columbia River. Much progress has been made, but further litigation in the courts is inevitable.

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Native Participation In Alaska's Commercial Fisheries

by

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Native people make up about fifteen percent of Alaska's total population, but in many small coastal and river communities, they are a majority. Many observers have commented that commercial fishing as an occupation has great attraction among Natives: it allows them to use traditional skills and at the same time earn money. Commercial fishing also leaves time for the subsistence hunting and fishing that most rural Natives still do.

Present Situation

At the start of the 1970s, Natives held about 25 percent of all permits to operate gear in the State's commercial fisheries; by 1984, they had increased their share to around 33 percent, or roughly 4,800 of the total 14,500 gear operator permits. This increase was due largely to the opening of new commercial fisheries in northern coastal and inland river areas in the 1970s. Compared with some of the State's older fisheries, these are low-value, low-harvest fisheries.

Most Native fishermen live in western Alaska. The western commercial fisheries cover a thousand mile swath from the Aleutian Islands north to Kotzebue Sound, with the richest fisheries, mainly salmon and herring, at Bristol Bay. Runs of the valuable sockeye salmon into Bristol Bay each year are, in fact, the largest in the world. Commercial fishing accounts for half to three-quarters or more of all cash income in Bristol Bay villages. Northwest of Bristol Bay, the quantity and quality of salmon and herring har-

vests rapidly decline, and so too, the opportunity to build local economies on the commercial fisheries is reduced in northern areas.

Several types of institutions and policies have generally had positive effects on Native participation in the Alaskan commercial fisheries. The most important of these has been the limited entry program for the salmon fisheries.

Limited Entry

In 1973, the State Legislature limited entry into the salmon fisheries, assigning permits to gear operators based on a point system that emphasized economic dependence on and past participation in the fisheries. These permits can be sold, traded, or given away.

The limited entry program guaranteed Natives and others a place in the fisheries and protected them from what would undoubtedly have been more intense competition in the mid and late 1970s, when improved runs and increased prices made the salmon fisheries very profitable. Many Natives and other fishermen have made good incomes over the past decade. However, incomes of Native fishermen, who tend to have smaller boats and less efficient gear, have generally lagged behind those of the fishermen.

The program has also had some negative effects on Native fishermen, the most important of which have to do with the current high price of permits. Fishing permits have become so expensive that most young Natives cannot afford them, and some Native fishermen have sold their valuable permits to non-Natives. The table below shows the decline in the number of locally owned permits in the western fisheries between 1975 and 1982. Local fishermen (most of whom are Natives) sold or otherwise transferred 320 permits, or nine percent of the total originally held by locals, to residents of other areas of Alaska or to non-residents during that period. Most of these transfers were in the Bristol Bay fisheries, where permits in recent years have commanded as much as \$100,000.

These transfers appear to represent a persistent erosion of Native owned permits. Such losses can be particularly threatening in Native communities where jobs other than commercial fishing are scarce.²

LIMITED ENTRY PERMITS HELD BY LOCAL RESIDENTS AND OTHERS IN WESTERN ALASKA SALMON FISHERIES, 1975-1982

Residency	1975		1982	
	Number	Percent	Number	Percent
Local	3,439	68.9	3,119	62.6
Alaska Non-local	601	12.1	773	15.5
Non-resident	949	19.0	1,087	21.8
TOTAL	4,989	100.0	4,980	100.00

SOURCE: Commercial Fisheries Entry Commission

State and Federal Regulations

The Federal Fishery Conservation and Management Act of 1976, which extended U.S. jurisdiction to 200 miles offshore and restricted foreign catch in U.S. waters, enhanced Native entry into various Bering Sea fisheries. This extended jurisdiction has also been at least partly responsible for the recent surge in Alaska's western herring fisheries. The International Pacific Halibut Commission in

² For further information on Native participation including loss of entry permits, see Steve J. Langdon, Department of Anthropology, University of Alaska, Anchorage, "Commercial Fisheries in Western Alaska: Implications of and for State Fisheries Policy," paper prepared for Western Regional Science Association Meeting, Monterey, California, February 22-25, 1984.

1984 also established a regulation that protected Aleut halibut fishermen on the Pribilof Islands from outside competition. The commission required non-Pribilof fishermen to travel more than 250 miles to Dutch Harbour in the Aleutians to check in their catches after each day's opening; non-local fishermen could not take enough halibut around the Pribilofs in a day to make the long trip back to Dutch Harbour worthwhile.

Several state area management and gear regulations also work to the advantage of Native and other rural fishermen. Boats fishing in Bristol Bay can be no longer than 32 feet, a restriction that favours local Native fishermen who generally have small boats. Seiners are prohibited from taking herring north to Cape Newenham (on the western boundary of Bristol Bay), a regulation that favours local fishermen in the northern areas who generally have small skiffs equipped with gillnets. The State Board of Fisheries, at the request of western Native fishermen, also has designated the Cape Romanzof and Norton Sound herring fisheries as "exclusive area" fisheries, which means that anyone who elects to fish in these areas cannot fish in any other herring fishery. Non-local fishermen favour the more profitable Bristol Bay herring fisheries to the south, and in recent years, Cape Romanzof fishermen have garnered essentially 100 percent of the local herring catch.

Native Corporations and Others

Some Native regional and village corporations formed under the Alaska Native Claims Settlement Act have involved themselves in buying and marketing catches of rural fishermen. Native fishermen themselves have organized a number of production and marketing organizations. Additional help is available under several state loan and other programs as well as from the Community Enterprise Development Corporation, a private non-profit organization.

Native fishermen at Cape Romanzof, north of Bristol Bay, have shown how several of the factors discussed above can create a successful Native enterprise. When villagers around Cape Romanzof learned that a commercial herring fishery was to be opened there in 1980, they had no commercial gear but were determined to enter and eventually take over the fishery. They obtained a loan for boats and gear from Alaska Resources Corporation, formed a cooperative to allocate gear and adopt policies, and establish a corporation to service the loan and market catches. Native non-profit organizations provided technical and other help. The State Board of Fisheries, at the request of local fishermen, designated the Romanzof fishery as an exclusive area fishery (noted above). By 1984, local fishermen took essentially 100 percent of the local herring catch.

Progress To Date

Commercial fishing provides one of the most, if not the most, effective means of achieving Native self-reliance in Alaska's coastal villages. It is one of the very few occupations that has clear potential for successfully integrating the cash economy with subsistence culture activities. On balance, traditions, regulations, organizations, and local initiative appear to be working in support of Native participation in Alaska's commercial fisheries, but losses of limited entry permits from Native villages is a continuing cause for concern.

Native Participation in the Canadian Arctic

by

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The Canadian Arctic comprises 39 percent of the land mass of Canada, and contains approximately two-thirds of the country's coastal waters. This immense area is characterized by great geographical diversity and climatic extremes. The land has a sparse human population comprising 25,000 Inuit, 34,000 Indians and Métis, and 41,000 non-Natives. Ninety-five percent of the Inuit population live in communities along the Arctic coastline and on the Arctic Islands. Of the Indian and Métis people living in the Yukon, 95 percent reside in the Great Slave and Great Bear Lake areas along the MacKenzie River Valley. Most of the non-Native component is located in the large population centres of Whitehorse and Yellowknife.

The Fisheries Resource Base

The Territories offer such aquatic resources as the Pacific salmon in the west to Arctic char in the north and east, and lake trout, whitefish, pike and Arctic grayling throughout in freshwater; walrus, seals and whales in the offshore, together with Pacific herring in the west and northern shrimp, northern cod and grenadier in the east. History has shown, however, that unless commercial exploitation is tempered with a considerable amount of concern for the preservation of fish stocks that drastic population declines can occur (e.g. bowhead whale). The Arctic ecosystem is a dynamic one which can produce substantial crop yields for northerners, but the slow rate of recovery of exploited resources must be recognized and management controls instituted if disasters are to be prevented.

Existing Fisheries and Their Use

The established fisheries are predominantly traditional food fisheries but several successful commercial fisheries in the western, central, and eastern Arctic have been established together with a handful of successful commercial sports fishing ventures. The latter are operated by non-Native, the former mostly by Natives. There are no commonly acceptable estimates on the value of the Arctic fisheries. The information that is available (from the Northwest Territories and the prairie provinces) suggest that the annual commercial production potential is about 26,000 metric tons. This represents a market value of approximately \$50 million. At present, these same fish stocks generate spending by recreational fishermen of approximately \$178 million annually. Native ventures into commercial fisheries, for the most part, have been successful right across the north. Commercial fishing along with other activities (such as Native handicrafts) have contributed to community economies and have provided the first major step towards Native self-reliance.

Progress To Date

Progress towards Native self-reliance is now accelerating as the winds of change blow through the country. They began in the late 1960s with the White Paper on Indian Rights, the James Bay and Northern Quebec Settlement of 1976 and the entrenchment of existing Native rights in the Constitution. The emergence of a strong Native politi-

cal force in Canada has resulted in significant progress between the Federal Government and Native groups in the settlement of comprehensive land claims. With respect to the latter, the Arctic has led the way in that one final Agreement has been concluded with the Committee for Original Peoples' Entitlement (COPE). There has been one agreement-in-principle with the Council for Yukon Indians (CYI). Significant progress has been made on an agreement-in-principle with the Tungavik Federation of Nunavut (TFN) representing the Inuit of the central and eastern Arctic. Also negotiations have begun with the Dene and Métis in the Mackenzie River watershed. Thus it can be anticipated that in the near future the whole of the north will be subject to the provisions of land claim settlements.

The COPE Agreement recognizes the Inuvialuit right to fish and hunt to satisfy basic needs and to conduct inter-settlement trade within the area of the claim. It also gives them first priority to marine mammals, within established harvest quotas, and protects their existing level of participation in commercial fisheries. Inuvialuit will participate in management through equal membership with government on a Fisheries Joint Management Committee and will input to the development of research programs through membership on a Research Advisory Council. Other claims also are expected to establish similar structures to ensure that Native people participate in the decisionmaking process (an example is the wildlife agreement-in-principle for the Nunavut). All of these together will ultimately provide Native people with direct influence on the management and development of renewable resources in the Arctic.

Towards Self-Reliance

It should be cautioned that these agreements will do nothing for Native self-reliance unless the agreements are implemented effectively. Success will depend on both government and Native groups working cooperatively — both assuming their responsibilities. As Bob Delury, the COPE negotiator said after the agreement was signed "The settlement will be judged on the basis of the people who use the tools, not the tool itself."

If Native people are to maximize the economic benefits from fish and marine mammals, they must form an effective working partnership with government so that the blend of modern management techniques and technology with Native knowledge and practical experience can produce a comprehensive data base and effective management controls. The latter will ensure high sustainable yields and help to silence critics of Native harvesting activities within the scientific community and among conservation groups in Canada and abroad. This is an important consideration as effective opposition to commercial whaling and the east coast seal hunt have demonstrated. Such is the power of public opinion that it is highly unlikely that an international whaling industry could be re-established, even if increased whale stocks warranted such exploitation. The importance of sound resource management cannot, therefore, be overemphasized.

According to the United Nations Food and Agricultural Organization (FAO), improved management may account for as much as 50 percent of the projected increase in marine fish catch over the next twenty years. This will put a heavy burden on fishermen, scientists, planners and technicians if indeed this is to occur. The prediction might be true for the Arctic providing that the new management

partnerships which are being created between government agencies and Native people do indeed work.

If Native people are to enhance their self-reliance and assume their rightful place in the post settlement era, many will need training in both technical and business skills. Although the numbers of trained personnel will surface via the traditional route of high school and university — this will take time. In view of this, government must develop a fast track mechanism to increase the number of competent Native personnel both within government management agencies and within the Native organizations to meet the number of new jobs created and the new responsibilities given under settlement agreements. The National Indigenous Development Program (NIDP) together with the established Northern Careers (on the job training programs) will be helpful in this respect. It is hoped that the participants in these government programs will help form a solid personnel base upon which Native self-reliance will be strengthened in the future.

The wider use of local resources and the development of new fisheries (especially in coastal waters) by Native communities, as well as the expansion of inter-settlement trade, will play a major role in this development. Although commercial fish production for markets outside the Arctic will continue to be important in the northern economy, high transportation costs and competition from southern producers will always be a problem. If local consumption of fish and wildlife is increased, dependence on southern foods will be reduced and local economies strengthened. The dollars retained through such an expansion of local markets would be available for investment both north and south of the 60th parallel. This, together with cash realized through the fiscal subagreements arising out of land claim settlements, should help to foster the goal of self-sufficiency.

The greater use of local resources in the north will require a fair degree of ingenuity — such as that demonstrated by the Japanese who have created acceptable imitation crabmeat from fish flesh. The new product has been well received in domestic and foreign markets and commands a high price when compared to the market price of its fish base. There has been some research into the use of whale meat, blending it with other materials to create acceptable products, but more work is needed.

Existing Prospect

There are many existing prospects which can generate dollars for Arctic economies from both domestic and foreign markets. The emphasis should perhaps be on quality rather than quantity and the creation of a truly "Arctic" product which will command a high price in the marketplace.

Arctic char continues to be a marketable product in high demand. However, the emphasis must always be on quality improvement. To this end, the Saputit experimental fishery near Cambridge Bay must be considered an ingenious mixture of traditional know how and modern technology. The means has been found to deliver a fresh product in premium condition to southern markets.

A commercial Arctic char fishery employing over 40 people has operated from Cambridge Bay on Victoria Island for over twenty years. The annual production is approximately 50,000 kg. The streams are fished by means of gillnets and the catch is flown to Cambridge Bay for processing. This method is expensive and subject to the vagaries of unsettled Arctic weather and such factors as

aircraft breakdowns. Thus, fish often arrive for processing in less than perfect condition.

The search for a better harvesting method has led to experimentation in using the traditional Inuit stone well for the purpose of intercepting and holding upstream immigrating char. At the site selected on the Jayco River, 95 km by air northeast of Cambridge Bay, and Cambridge Bay Co-op in cooperation with local Native fishermen and the Department of Fisheries and Oceans installed a wire mesh weir for the 1980 fishing season. It has been used with some modification successfully for each fishing season since then. The weir enables char to be collected during their migration and held live until air transportation is available. The char are captured with a seine net, killed, dressed, and transported to the processing plant in prime condition. Using this method quotas can be taken with ease, the fish selectively harvested, and valuable fisheries management data collected with a minimum of effort.

Fishermen are pleased with this weir fishery which they can operate independently and share the profits on an equitable basis. The statistics to date make interesting reading. The quota of 11,000 kg of Arctic char were harvested in 1980, 830 char tagged and released and a total of 33,388 char were counted through the weir before it washed out. In 1981, 11,000 kg of Arctic char were harvested, 945 char tagged and released, and 138,573 migrating char counted through. In 1982, however, only 5,711 kg of char were harvested. The 1983 figures are not yet available. It is interesting to note that last year, although the freezer in Cambridge Bay broke down for a period of time, char were held below the weir until repairs were completed. This prevented a serious loss of fish and dollar earnings which might have occurred if the fish had been harvested by gillnet. Although more experimental work is needed before the method is expanded to other locations, results are encouraging and it demonstrates the benefits of combining the talents of Native fishermen with those of fisheries management personnel. This augers well for the future.

Such experimentation is not always so successful. In an effort to selectively harvest lake whitefish commercially in the east end of Great Slave Lake, NWT (an area presently closed to commercial fishermen to protect valuable lake trout for the sport fishery) an experimental trap net fishery was operated in five locations in 1983. The trap nets were set at varying depths. They varied in size and in the number of pots, wings and funnels. For the purpose of comparison, gillnets were set within 200 metres of most trap sets. The results were disappointing. Within each period of trap netting the mean catch was consistently low for both lake whitefish and lake trout. The success was no better even when gillnets indicated there were many fish in the area of the traps. It was concluded that while changes in net construction such as mesh size may increase catch, the visibility of the trap to fish may be the key factor in trap success.

Mackenzie Delta herring roe is a major dollar earner for Canada! Perhaps not a likely headline, given the availability of B.C. herring, but who knows? Recent work on the Pacific herring in Liverpool Bay, NWT has produced some interesting results. Cooperative studies by the Department of Fisheries and Oceans (DFO), the Inuvialuit Development Corporation of COPE and the NWT, have produced vital data on this species and has shown that roe of a quality acceptable to the Japanese market probably can be harvested in significant quantities. In June 1982, 23

out of 27 under the ice sites fished by local fishermen, produced a total harvest of 6,900 kg of herring. Of this, 4,580 kg were shipped to the processing plant in Inuvik, producing 398 kg of roe which was assessed as marketable by experts in Vancouver. This experiment is another example of effective cooperation and blend of old and new technologies.

It would be a bonus if Arctic herring had superior and recognizable qualities which would stamp it as an unique Arctic product. This may be true of another recent success: Golden Caviar produced from the eggs of whitefish from NWT and the northern prairie provinces. Developed by DFO, the product was first marketed successfully in 1977 and was put into production with the help of industry in 1978. The results have been impressive with gross sales revenues exceeding \$250,000. The 1981/82 sales of this product were sufficient to warrant a 66 percent increase in product volume for the 1982/83 season. There are many potential sources for this product from Native commercial fisheries in the NWT, the prairie provinces and northern Ontario. The fact that the caviar has won national and international acclaim augers well for the future. This may provide a special payoff for the Inuvialuit in that broad whitefish in the Mackenzie Delta have larger eggs than their cousins, the lake whitefish. Perhaps such a product could be marketed as Arctic whitefish caviar to bring an even better price.

Future

The future looks bright for Native fisheries in the Arctic. Economic benefits can be realized both through better local use of resources and by the marketing of selected products in the south. While such commercial ventures will play a key role in the development of Native self-reliance in the future, more thought should be given to the sports and recreational fisheries and to the non-consumptive use of fish and wildlife both as an additional dollars earner and as an effective backup, should traditional harvesting activities be threatened or curtailed by pressure groups and adverse public opinion.

There is presently a small sports fishing industry in the Territories. Wilderness fishing opportunities attract anglers from around the world who are willing to pay large sums of money to enjoy an Arctic fishing experience. These ventures together with the associated infrastructure (such as transportation, food and equipment supplies, guiding) provide substantial employment and income. The industry is presently in its infancy in the north.

The naturalists have similar interests in the Arctic and are willing to pay for the opportunity to explore the Arctic landscape and photograph its varied flora and fauna. Who better but the Native hunter or fisherman to know where to go and what to see? This non-consumptive use of wildlife can yield good revenues while leaving the fish, animals, and birds to be harvested at another time. Whale watching is an emerging activity which falls into this category. There are numerous examples in North America and elsewhere, where businesses have been built on this kind of activity and where business is growing as people become more aware of the world around them.

In conclusion, I would like to emphasize that there are many fishing related opportunities in the Arctic for northern Native people. Success will depend, however, on maintaining a healthy resource base, sound resource management, and above all, building an effective working partnership between government and Native people. This

will require ingenuity, money, technical expertise, and a willingness to experiment and change. Government will provide some money and technical competence initially, but Native expertise must be rapidly developed. Native economic development funds, realized through land claim settlements can be used to promote Arctic fisheries development. Native people must be actively involved in all phases of fisheries management, including the development of new fisheries, if the full potential of Arctic resources, and self-sufficiency, are to be realized. I believe much of the groundwork in the north has been done through the land claims settlement. What remains now is for us to make it work.

Prospects for Aquaculture Development on Canada's West Coast

by

George Hunter
Aquaculture Coordinator
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A Worldwide Trend Towards the Use of Aquaculture Technology

Aquaculture is a word that seems to be on many people's lips these days. While the culture of aquatic organisms is not a new concept, it is one which is perceived to be of rapidly growing significance in a world hungry for seafood products. The world demand for aquaculture products is expected to increase dramatically over coming decades primarily as a result of the recent 70 million ton plateau reached in the wild harvest. The prospects for further expansion of capture fisheries are not good. Therefore, the growing world demand for seafood must be met through the use of aquaculture technology. The United Nations Food and Agriculture Organization reported a total world aquaculture production in 1980 of 7.8 million tons, about twelve percent of the wild harvest. However, this level was up 43 percent from 1975 and future projections indicate that this production could double by 1990. Therefore, it is not surprising that aquaculture is considered by many to be one of the major economic growth industries of the next several decades.

In addition to the demand generated by shortfalls in wild fisheries, the demand for aquaculture products is further strengthened by the ability to use aquaculture technology to provide a continuous supply of uniform high quality products. Guaranteed supply and high quality product are two traits that are particularly attractive to market retailers. These are two traits that also are prized by consumers, who are willing to pay handsomely for fish products that offer such advantages in the marketplace. In fact, it is the advantages offered by a guaranteed supply of good quality product that could be considered the secret of success for aquaculture operations.

The Norwegian Experience

Confirmation of the changing prospects for aquaculture may be seen in a growing number of international successes. Although this change is occurring in a number of countries, one of the most dramatic is the development of the Norwegian salmon farming industry. This industry has grown from a total salmonid production of 531 tons in 1971, to over 22,000 tons in 1984 (of which 17,000 tons

was Atlantic salmon). The development of the Norwegian industry was initiated about fifteen years ago primarily as a response to an unstable and declining wild fishery for Atlantic salmon (a traditionally high valued product in Europe).

A combination of freshwater habitat deterioration (acid rain) and international overfishing has reduced the wild harvest to the range of 1000 to 2000 tons. Faced with this situation, the Norwegians saw the opportunity to rear Atlantics in net pens, thus permitting them to take advantage of high demand for Atlantics and provide employment for persons displaced from the wild fishery. Using natural fish habitat, much of it is similar to that available in Canada, the Norwegians have developed a highly successful aquaculture industry. It is this type of international success, together with the accompanying improvements in technology, that have reduced both biological and investment risks. As a result, many lending institutions are now prepared to consider supporting aquaculture ventures.

The Potential for Aquaculture in Canada

The tremendous potential for aquaculture development in the near future was recognized by members of the industrialized nations by their choice, at the Versailles Summit Meeting two years ago, of aquaculture technology as one of eighteen technologies worthy of joint development. Canada, by virtue of its history of aquatic research and development and its abundant natural resources, was chosen to lead this development. Thus, Canada has an opportunity to further add to the international knowledge base and develop an aquaculture industry of its own. And while it should be cautioned that the development of Canadian aquaculture will require solutions specific to Canadian problems, the general approach taken by others (particularly the Norwegians) offers some important lessons. For example, the approach taken by the Norwegians to the development of their industry was pragmatic and involved the identification of constraints and their removal. This process already has been initiated in Canada. Several reports prepared for the Science Council of Canada and the B.C. Science Council, in cooperation with industry, have identified major constraints. These include:

1. Because of an unnecessarily complex regulatory process arising from federal-provincial jurisdictional conflict, and the traditional common property oriented approach to resource management taken by resource managers, the right to initiate aquaculture activities is severely limited.
2. Because of a lack of positive policy statements supporting industry development, a lack of adequate industry performance data to permit accurate assessments of investment risk, and the problems associated with obtaining terms of tenure, financial backing is difficult to obtain. The tenure requirements of lending institutions, coupled with uncertainty about regulation in the industry, further hamper the public's ability to obtain financial backing for aquaculture development.
3. A lack of education and training in advanced techniques because of a paucity of pilot projects, demonstration facilities, extension services, and general business development expertise.
4. Because of a lack of industry oriented research and development, extension services (veterinary), critical factors of production (such as seed, diets, and marine technology), there is difficulty in producing a marketable

product.

5. A lack of market and product development, product criteria, and the technology to produce a high quality product.

Removal of Constraints

The aforementioned constraints clearly indicate that some public policy initiatives are required. The two levels of government in cooperation with industry should:

1. Identify aquaculture development as a priority.
2. Clarify the federal and provincial roles in aquaculture to allow for streamlining of the regulatory process and coordination of services.
3. Provide financial support either through direct support programs or the provisions of information required to allow investment decisions by lending institutions.
4. Provide for critical infrastructure development in such areas as seed supply, education and training, extension services, market development, and product quality development.
5. Provide industry oriented research and development and a method for transferring technology.
6. Ensure compatibility with existing fisheries through community development and the creation of social and economic benefits.
7. A means of coordinating the delivery of developed programs is required.

Opportunity on the Pacific Coast

Assuming we can eliminate the aforementioned constraints, there is clearly an opportunity to expand existing salmonid and oyster industries on the Pacific Coast. The farming of Pacific salmon has been under way for several years now. At the present time there are about ten producers with an annual production of 100 to 150 tons per year. The industry was originally based on the pan sized market utilizing coho salmon. The industry has now switched its objective to the production of four to six kilogram fish utilizing chinook salmon. The salmon farmers are very optimistic about the future of this new approach, anticipating an ultimate size equal to the Norwegian industry. However, future rates of growth will clearly depend on seed supply and the development of domesticated strains with good production characteristics.

The Pacific oyster industry in B.C. has existed for well over fifty years. Traditionally based on bottom culture, in 1983 the industry produced 150,000 gallons (U.S.) of oysters worth \$1.5 million. Because of a shortage of suitable beaches for culture, the future growth of this industry will depend on off bottom culture techniques such as floating tray and longline culture. Estimates of potential annual production from this industry are in the order of 40,000 tons per year. Future development of this industry must also involve the utilization of hatchery techniques which have allowed the U.S. industry to make inroads into the B.C. market.

In addition to Pacific salmonids, other finfish including Atlantic salmon, herring and sablefish, offer culture possibilities. The Atlantic salmon industry in Norway and Scotland has developed a sophisticated technology through the culture of salmonids. Inquiries regarding the importation of this technology to B.C. have been made. While these inquiries are being viewed with an open mind, any importation of Atlantic salmon must satisfy current fish health regulations to ensure the safety of our native species.

Both the herring and sablefish culture strategies evolved

as offshoots of the wild fishery. The herring strategy involves the capture of herring prior to reaching the spawning grounds. These herring are held in net pens to maturity, allowing daily assessment of their condition, and thus optimizing the production of the sac roe or roe on kelp product. This strategy appears extremely profitable, primarily because the fish do not have to be fed during captivity. However, management considerations must be addressed before this technique may be implemented coast-wide.

The sablefish strategy initially proposed involved the capture of subsize fish from wild stock which could then be grown out in net pens. This appeared to be a profitable strategy as the growing demand for sablefish, especially the smoked Alaska black cod, could not be met by the wild harvest which has a quota of approximately 4,000 tons. The capture of juveniles, however, was viewed as a potential threat to the wild fishery and therefore an alternative strategy has been developed. This alternative strategy involves the development of culture techniques which will permit the spawning and rearing of black cod throughout their life history.

Shellfish culture industries utilizing scallops, abalone, clams, and mussels also have potential. Successful industries for scallops, abalone, and clams are largely dependent on the development of hatchery procedure for these species, and in the case of clams, techniques for protection from predators. Seed supply does not appear to be a problem with mussels, as natural sets of the blue mussel are available. Technical constraints to this industry include an, as yet unexplained, summer mortality as well as bird predation. Despite this, the prospects for a significant shellfish industry on the Pacific coast appear promising. (European production of shellfish is expected to increase to 462,000 tons by 1985. An even larger shellfish industry is currently in place in Japan.)

In Canada, British Columbia offers the greatest potential for aquaculture development. We have on this coast environmental conditions ideally suited to the culture of aquatic organisms; a variety of potential culture species, large available seafood markets in Japan and the U.S.A., and an excess of demand over supply for many products. Our opportunity is to expand our present aquaculture industries for Pacific salmon and oysters and develop new ones based on a variety of other species.

Prospects for the Future

In conclusion, the future prospects for development of a British Columbia aquaculture industry, which are based on a variety of aquatic organisms, appear high. Canada's approach, similar to that in Norway, should be to encourage cooperation between participants and between governments. Government should play a role in helping industry get started. However, the goal should be to develop a competitive and self-sustaining industry that will enjoy continued success without long-term government financial support. In structuring the industry, particular care should be exercised to ensure that the full potential of the benefits that aquaculture can provide are used to achieve broader socio-economic goals. If there is any single lesson that Canada can learn from the Norwegian experience, it is that aquaculture can be used to foster community welfare and enhance the quality of life in small isolated villages. Particularly on the west coast, where there is the best potential for establishing an aquaculture industry in Canada, community oriented operations should be en-

couraged. Not only has it been demonstrated that small community oriented operations have the best potential for success, but Native people by virtue of their cultural, tradition, and geographic placement will be in the best position to take advantage of developments in this industry.

Seizing the Opportunity A Changing Approach

by

Lonnie Hindle

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The relationships between the Department of Fisheries and Oceans (DFO) and the Native community over the years, to say the least, has been one of outbursts and periodic confrontations, the symptoms of a deep rooted malaise. Native people are disadvantaged people; they look to fish, whether they be salmon, bottom fish or crustacean, as both a symbol of what has been lost and hope for the future. The federal and provincial governments should seize the opportunity to use fisheries to promote economic and social development founded on our rich fishery resources.

Economic Development Opportunities

Among the economic development opportunities available to B.C. Indian Bands, the greatest potential is in the fishery resource. The geographic location, cultural traditions, and affinity to the resource provides an abundance of opportunities for Native economic development. Moreover, the long-term prospects for commercialization of the Indian Fishery are impressive. At a time when the conventional fishing industry represents a shrinking employment base, the development of viable locally based activities becomes urgent. While these objectives are

being dealt with in the development of a national policy on Native fisheries and Indian participation in the fishery, there are some immediate opportunities to test the concept of commercialization of Indian fisheries. In addition, there are immediate economic opportunities in the allocations of underutilized stocks that cannot be taken in the traditional fisheries due to the catching capacity of the fleet.

Through co-management and better stock utilization, programs can be developed to enhance the resource for the benefit of all Canadians. With the expansion of fish husbandry activities, there can be a coupling with aqua and mariculture. In short, by the allocation of spawn on kelp licenses, herring impoundments, underutilized stocks, surplus salmon stocks, fish farming activities, a co-management program can be put together that will both enhance the resource, and for the most part, be self-sustaining.

In order to develop and take advantage of these economic opportunities, there needs be multilateral consultation on the development of policy. In addition, there must be a regulatory framework through enabling legislation.

Progress to Date

In 1983 the DFO and the Qualicum Band of Indians piloted a rack fishery; and in the opinion of many, this fishery was an outstanding success. In fact, the economic analysis stated: "the results of this analysis clearly show that a Native fishery, such as was conducted in fall, 1983, is the most efficient method of harvesting surplus hatchery production from the Qualicum Hatchery." The alternative considered, a commercial gillnet fishery, is also an efficient approach but produces discernably less benefits for the Canadian economy compared to the Native operation.

Where Do We Go Now?

The Native community, the federal and provincial governments must seize upon these immediate economic opportunities to develop a framework for the future.

WORKSHOP DISCUSSION SUMMARY

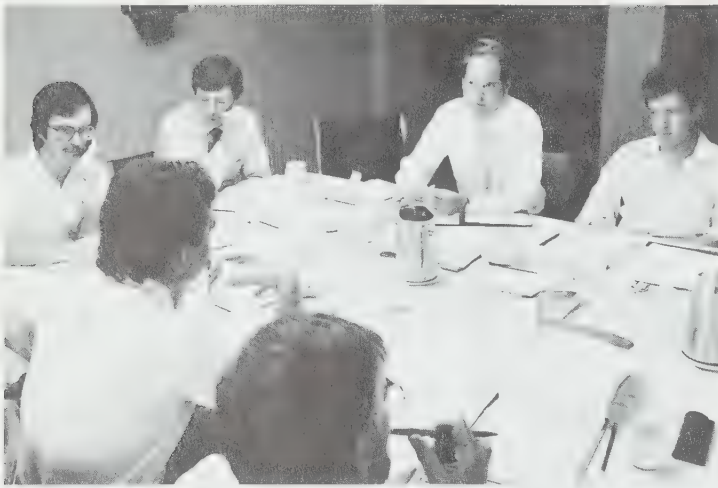
Fisheries and Aquatic Resources

SUB-THEME #3

The workshop discussions revealed that, contrary to a substantial amount of opinion, Native people in North America have successfully competed in all phases of the fishing industry including many concomitant activities such as sport fishing and guiding. For instance, Natives have owned and operated fishing operations in the north (Alaska, the Yukon and the NWT), fish processing operations on the Pacific coast, and participated in fish management regimes throughout North America. The prevailing mood in the workshop was for greater Native autonomy, higher levels of Native participation in the industry, greater input into fishery management operations, and a wish to attain self-sufficiency with some government assistance, but with a minimum of direct government intervention.

It was recognized that there remain many obstacles to Native independence both within government and in the Native community. The desire to achieve independence is sometimes inhibited by a reluctance among some Natives to establish businesses in concert with the non-Natives. As well, there is the tendency to cling to traditional patterns that preclude working with specific Native groups on ventures of mutual advantage. It was felt, however, that a paucity of opportunities within the Native community, a general lack of experience in forming business enterprises, and a distrust built-up after many years of frustration, help to explain some of these attitudes.

Although important, Native attitudes are not the main reasons why Natives are not playing a greater role in North American fisheries. In the United States, full par-



Fisheries and Aquatic Resources Workshop Session

ticipation is hampered by the failure of many to recognize Native traditional rights and the historical importance of fishing to the welfare of Native people. Corporations, private groups, and even individuals proceed with activities that reduce or destroy the habitat or fish stocks on which Native people (as well as others) depend. Other user groups, competing for what they consider their fair share of the resource, either consciously or inadvertently exclude Natives from their share of the stocks. United States delegates in the workshop described a long series of judicial or quasi-judicial forums which adjudicate on both Native fishing rights and the share of the resource to which Natives are entitled. While this long and involved process causes concerns and limits Native ability to form independent businesses (at least for the time being), there is good reason for optimism. There is reason to believe that this process, although painstakingly slow, will ultimately work in favour of Native people.

In somewhat of a contrast to experience in the United States, in Canada impediments to self-sufficiency are mainly linked to government regulation and bureaucratic attitudes, which stifle individual initiative. The Government in Canada, with its Indian Act, prohibits Native people from using Indian owned land for collateral for financing Native businesses. This, coupled with what is perceived to be inflexibility on the part of government officials, often prevents Natives from obtaining the necessary financing or risk venture capital to start up business enterprises in the fishing industry. Those government funds which are available, are often provided in isolation from some of the realities of the industry and are subject to so many restrictions that Native enterprises have little chance of success. Many of those in government, who ultimately determine if a particular Indian business proposal will receive government support, fail to realize that fishing is a risky business. The fishing industry has extreme highs and lows, and some Native businesses will fail, just as there are failures in the general community. Not every Native business failure should be considered evidence that Indian fishing business enterprises cannot succeed.

Related to this is the problem of successfully competing in the fishing industry. It generally is felt among many (both inside and outside of the Native community) that in order to achieve success in the fishing industry, investors have to compete directly with those already in the industry. In most parts of North America, the fishing industry is dominated by large corporations, some with strong inter-

national linkages. Any investment group or individual wanting to compete in such a climate will have to make substantially high investment, accept enormous risks and a low probability of success. It is felt this attitude, the attitude that it is necessary to compete directly with those already in the fishing industry, is one of the major reasons why so many of those entering the industry do not succeed.

The approach advocated in the workshop is that those wishing to enter the industry should start small businesses, with low capital investment requirements, produce specialized fish products using presently under-utilized fish stocks and cater to local markets. The "small is beautiful" approach was considered particularly appropriate for west coast Indians who, with traditional ties to the resource, and generally close proximity to the fishing grounds, could enjoy a distinct competitive advantage in producing Indian-recognized fish products for the domestic market. Small "cottage industry" fishing enterprises, would allow for gradual expansion, practical training of Indian workers, and encourage innovation without unduly high risk and the need for long-term government support.

Linked to the concept of "small is beautiful" and self-sufficiency was the view that the aquaculture potential on the west coast is substantial. It was generally agreed that aquaculture will become a major activity in British Columbia in the not too distant future. It is essential, therefore, for the Indian community to be given every opportunity to get in on the ground floor. The community itself has to take the initiative to ensure that they are in a position to participate in aquaculture developments, an activity that clearly is consistent with Indian lifestyles.

Critical to Native self-sufficiency is the early settlement of Native claims. It is felt that this is particularly important to west coast Indians. The reason for this importance is the pending changes in the management and administration of British Columbia's coastal fisheries. If Indian people are to share fully in the opportunities available in these fisheries in future, then it is essential before alternatives are foreclosed, to determine the portion of the resources that will be available to Native people. Settlement of fisheries based claims on the Pacific coast would establish a framework for similar settlements in other parts of Canada, and also would provide Natives and others with a better understanding of the economic development opportunities that are available.

It was emphasized during the discussion that claims settlements are not only important to Natives, but also to industry and to non-Natives. Uncertainty as to when the settlement of specific claims might occur, raises a substantial amount of concern among all Canadians. It inhibits private sector investment, delays Native related development, causes uneasiness among fisheries' managers, and generates anxiety among the general population as to the nature and extent of final settlements. Until some progress towards claim settlements is made, many Canadians will continue to harbour an unrealistic and unreasonable view of the effects that final settlements will have on individual segments (e.g. commercial, and recreational fishermen) of the Canadian population.

The early settlement of claims also is important to the ability of Native people for financing future developments. Native investment initiatives are often frustrated by the inability to acquire sufficient financing to establish businesses on a sound financial footing. Claims settle-

ments would provide opportunities for overcoming this problem. It would provide the essential collateral for financing innovative, and sometimes risky, ventures, and provide a foundation for independence and self-sufficiency.

Strongly related to Native self-sufficiency and fisheries development is the concept of small community development and the provision of employment opportunities in remote locations. Most of North America's valuable fisheries are located in remote or sparsely populated regions, where economic opportunities are limited and employment possibilities are scarce. Fisheries development provides both government and those who choose to live in less populated areas with many advantages. It provides governments with the opportunity to create productive employment which will contribute to the quality of life in isolated communities. It provides those living in remote locations with the opportunity to establish fish related enterprises, close to a source of supply, and free from the burden of transporting raw fish over long distances. The competitive advantages that accrue from being close to a ready supply of a variety of species cannot be over-emphasized in terms of production scheduling, producing a quality product, reducing the costs of transportation, and storage. Perhaps of even greater importance, the establishment of fishing business enterprises is consistent with the traditions and lifestyles of those living in remote communities.

The workshop may be summarized:

1. Native people have successfully operated fishing related enterprises throughout North America.
2. The failure of Native related fishing enterprises normally can be attributed to two main reasons:
 - (a) attitudes within the Native community itself,
 - (b) the difficulties associated with government regulations, and
 - (c) the rigid interpretation of regulations that often inhibit business success.
3. Although there remains much to be accomplished, the ability of Native people to achieve self-sufficiency and independence is improving in both the United States and Canada. In the United States, court decisions appear to be slowly moving toward the Native position on fishing rights. In Canada, changing attitudes towards Native claims and the possibility of claims settlements, appear to be working in favour of Native independence.
4. The mood of Native people participating in the workshop was one of wanting greater autonomy free from government intervention. This is not to suggest that government assistance is not needed, wanted, or required. Rather, it is that government should help by removing obstacles to Native development, by creating an atmosphere conducive to success and providing assistance that will encourage rather than stifle individual initiative.
5. There is a need within government to recognize fisheries as an economic development tool for remote community and rural development. Emphasis on fisheries development in rural areas would provide job opportunities and add to the resource base. The

greater use of terminal fisheries on the west coast would allow for greater precision in fisheries' management. Native participation in efforts to increase the resource base through development and more precise management would instill an even greater commitment to the welfare of the resource within the Native community and allow Natives and other users a larger share of increased stock production. If this were proceeded with immediately and implemented over time, other users would not have to reduce their harvest to provide Native people with a share consistent with their catch levels in the past.

6. The specific initiatives identified that would help facilitate Native self-reliance are as follows:

- (a) Extending existing government policies to allow for an increase in the length of tenure and numbers of fishing licenses available to Native people.
- (b) Increasing Native participation on boards and area management committees to provide Native people with greater input into overall fisheries' management.
- (c) Establishing new institutions, such as development councils and corporations within a Native system of government to encourage new business investment, facilitate training, and stimulate joint participation with private industry.
- (d) Establishing new sources of funding, both within government and through lending institutions in the private sector, to allow Native people greater access to risk venture capital. Under the right conditions, this would encourage greater use of underutilized species and stimulate the development and marketing of new products.
- (e) Native fishing enterprise failures should be viewed as learning experiences from which mistakes can be addressed and overcome in future, rather than as confirmation that Natives (with many successes) cannot own and operate thriving businesses.
- (f) Emphasis should be placed on Fisheries as an instrument for economic development in remote areas. This would encourage the establishment of a small "cottage industry" that is not in direct competition with existing businesses. It also would help stimulate the processing of a variety of species (some of which are currently underutilized) and create employment opportunities that are consistent with the skills, traditions, and lifestyles of Native people.
- (g) Natives should seek out opportunities, and government should actively encourage Native participation in aquaculture development on the west coast. Aquaculture is considered a growth industry, which when coupled with the establishment of terminal fisheries, would improve Native access to the resource without displacing other users.
- (h) The resolution of the fisheries component of Native claims should be undertaken immediately. The resolution of these claims would reduce uncertainties in the fishing industry, among private developers and within the general population.

CONFERENCE SUB-THEME 4

WORKSHOP OUTLINE

WORKSHOP TITLE:
Claims Settlements

WORKSHOP COORDINATOR/MODERATOR:
Fred J. Walchli
Senior Negotiator for Native Claims,
British Columbia Region, Department of Indian Affairs and Northern Development, Vancouver, Canada

WORKSHOP FORMAT:
This workshop was broken down into four sections.
These were:

Section I:
An historical overview of Native and Land Claims in both the United States and Canada

Section II:
Land Claims in practice: the Nature and legal recognition of Aboriginal Title

Section III:
The Objectives of Land Claims Settlements

Section IV:
Panel Discussion on Claims Settlements: Land Claims and the Future



Claims Settlements Workshop Session

CLAIMS SETTLEMENT

OPENING COMMENTS AND PANEL PRESENTATIONS

Claims Settlements Opening Comments

by

Fred J. Walchli
Senior Negotiator
Native Claims
Vancouver, Canada

In welcoming all of you to this conference, and in particular the claims workshop, it is appropriate for me to point out that ever since white man first set foot on the North American Continent, our governments have been trying to resolve issues related to the use of land and resources with Natives. Despite these efforts, in both Canada and the United States, we have not been achieving satisfactory settlements. Moreover, from the present perspective, it looks as if these claims issues will be around for some time to come.

In some areas, the United States is further ahead than we are in Canada. Nonetheless, Canada is actively pursuing claims settlements. This is particularly true in British Columbia where less than twenty percent of the land, on which Natives have indicated they have a right or claim, has been settled. This overall situation is further complicated by the fact that many of the agreements that have been established are under challenge by the Indian people at present. These challenges usually are based on:

- (1) the belief among the claimants that government has not lived up to the obligations outlined in the agreement either through neglect or misunderstanding and/or,
- (2) the perception that there was an injustice done when the agreements were originally negotiated and settled.

Regardless of the reasons we have not been successful in resolving acceptable agreements in either the United States or in Canada. It is my hope that through this forum, *we will be able to stimulate discussion which will produce new ideas and different solutions so that better progress can be made in future.* With this goal in mind, I have broken this workshop into four sessions so that everyone may participate in all discussions that take place. In addition, and as I think most of you will agree, we have been successful in getting several very prominent people to participate in our workshop. These people were invited either because it is felt that their special experience will stimulate the type of discussion necessary to achieve our workshop goal of developing new ideas, which will contribute to greater success in future.

SECTION I

Claims Settlements: An Historical Overview of Native and Land Claims In Canada and the United States

CHAIRMAN/MODERATOR:

Fred J. Walchli

RECORDER:

John L. Hall
Claims Analyst
Office of Native Claims
Department of Indian Affairs and Northern
Development
Vancouver, Canada

The Development of Native Claims in the United States

by

Peter Taylor
Solicitor, Senate Select Committee
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The Europeans, when they landed on this Continent, desired to maintain peace with the Indians. They recognized that Indians had certain legal rights on the lands that they occupied, so the treaty process was the one that was entered into from the very earliest landings — the very earliest colonial periods. Part and parcel of entering into treaties, at least as far as the law in the Lower 48 is concerned, was a recognition of tribal government to start with, which apparently sets us somewhat apart from the Canadian experience. Clearly we had to have someone we were dealing with that could claim ownership to the land and could also speak for the people that were living on the land. That automatically constituted a recognition of tribal government, a body of people who could put their names to paper and transfer titled lands, and assure peaceful relationships. So land purchase through treaties with guarantees of peace and other considerations were really a fundamental aspect of the European dealings with the Indians in the United States.

While a very substantial portion of the land acquired from Natives was acquired by the way of treaty, an additional substantial portion was simply acquired through

the unilateral act of the United States Government. This was indicated in a publication written by Professor Russell Barsh of the University of Washington in Seattle, who states:

... from the close of the American Revolution to 1900 the United States took possession of more than two billion acres of land claimed by indigenous tribes and nations. Half of this area was purchased by treaty or agreement at an average price of less than 75 cents per acre. Another 325 million acres, chiefly in the Great Basin area which is in the west, were confiscated unilaterally by act of Congress or executive order without compensation. An estimated 350 million acres in the contiguous 48 states and most of the State of Alaska's 375 million acres were claimed by the United States without agreement or the pretense of a unilateral action extinguishing Native title.

Nonetheless, the treaties dealing period extends from colonial times to 1870 when Congress declared that there would be no more treaties.

At the time that Congress declared that there would be no more treaties, at least one Indian superintendent wrote back and said something to the effect that this was all well and good but what are we supposed to do with the rest of the land and the Indians? The problem was that we had not yet entered into agreements with many Indian tribes, particularly in the northwest. Thus, a policy was adopted, which instead of requiring ratification only by the United States Senate, also required ratification by the House of Representatives. In effect, this is merely the normal legislative process, which served to approve agreements on treaties that had been entered into with tribes. During the 19th century approximately \$800 million was put out as part of the land acquisition process.

The most famous case in our Indian law — a very fundamental case — is the *Worcester v. Georgia* Supreme Court decision (1832) which extended negotiation to tribes as governments as a matter of law of the land. The basis for that decision actually was laid out before the adoption of the Constitution in 1789. The court in the United States had been used by Indians to adjudicate their claims disputes since before adoption of our Constitution. However, it was not until the early part of the 19th century, that the first formal attempts of setting up claims dispute resolutions were initiated. In 1855, the United States Court of Claims was established. With the establishment of the Court of Claims, Indians or Indian tribes received the right to pursue damage claims against the United States for perceived resolutions of treaties. In 1863 for unapparent reasons, the Congress stripped the court of the right to hear claims of tribes on treaty violations. From 1863 to 1946 the only way a tribe could get a claim brought to court was through special acts of Congress. I understand this to be similar to the situation in Canada. Specifically with respect to the *Calder Case*, this appears to have been the case where the Queen had to approve the right of the Nishga to pursue their claim through the courts. In the United States, this required the approval of Congress to redress through the courts a process which was fraught with problems. Before proceeding with this, however, I wish to follow through on our policy as it provides insight into another question. That is the question of what an Indian claim really is by definition.

In the first half of the 19th century the general policy

was westward removal. We would negotiate treaties with tribes, we would buy title to Indian land. We would move the tribes west, usually quite inhumanely, settle them in what was referred to as Indian territory where they were supposedly never to be disturbed. But they did not remain undisturbed for long. By the mid-1800s we were beginning to move into a pattern of establishing reservations. The policy of westward removal had pretty well reached the end of the line by the late 1800s. By that time we had decided that tribal governments and Indian reservations were an anachronism. A new policy was adopted under the provision of a General Allotment Act. The purpose was to open up Indian reservations to settlement by homesteaders. Basically what we would do is go into the reservations and allow every man, woman, and child to select 160 acres of land. If it was up in a dry area like South Dakota the allotment might have been 360 acres. If it was in highly irrigated type of areas they might say 40 acres, but 160 was the standard rule. Each Indian man, woman, and child would select 160 acres and then the remainder of the land within that reservation was declared surplus and was put up for sale to homesteaders, immigrants coming over from Europe. The whole object was that the reservations would cease to exist, and in fact the tribal governments themselves would cease to exist. It was believed that Indians would acquire citizenship. At that time, United States citizenship was considered incompatible with citizenship in a tribe. Thus, the policy adopted in 1885 with the Allotment Act was essentially one of assimilation and disappearance. The policy was a complete flop, from both the standpoint of the Indians and that of the United States. In 1934, once again, reversed our policy by reaffirming tribal government essential element in our efforts to accommodate resolution to Indian grievances.

During the 50 year period leading up to 1934 when the Indian Reorganization Act was enacted, the Indian land base shrank from 150 million acres within the reserve systems down to 50 million (roughly what it is today). This does not include the lands in Alaska, where I believe the tribes have about 40 million acres. But in the Lower 48 it is about 50 million acres. I might just point out that of that 50 million acres, the Navajo Tribe alone has about sixteen million. So it can be imagined that the Indian land base became, as it is today, somewhat depleted.

In the 1950s we went through the period of termination, which was essentially one of withdrawing federal recognition from an Indian tribe. This amounted to a matter of saying you are a citizen of the state of Wisconsin, or Minnesota or wherever it was, and a declaration that Indian lands are no longer protected from state taxation or the enforcement of state laws. The federal relationship with you is terminated. This period of termination came to an end around the 1960s when we saw that policy was a terrible flop. We are still in the process of turning it around now. We have had legislation coming through in the last few congresses which has restored recognition to tribes, and I expect we will continue to see more. So the present policy of the government is one of recognizing the Indian tribes, extending services to the Indian people through the tribes, and providing continued protection of their resource base. This protection is sometimes handled well and sometimes it is not.

This brings us to the question I raised above — that is the definition of an Indian claim. The definition that is implied through the traditional claims process is one which deals solely with rendering monetary judgments

for lands that have been taken away. Thus, the only thing that tribes receive through the courts from favourable decisions are monetary judgments. It was because of continued complaints from tribes as to the propriety of this approach that in 1946, the Indian Claim Commission was established. The Commission did not represent a significant advance forward, but it did broaden the concept of damages. It did allow future claims because of failure to have fair and honourable dealing with government, and the establishment of an investigative arm. However, the jurisdiction of the Commission was limited to awarding monetary damages, and even worse, the Commission's judgments were based on land values at the time of the taking with no provision for interest. In any case, the investigative arm was never funded and the Committee was extinguished in 1977. At the time of extinguishment there were 370 claims that had been filed. When broken down into separate components this amounted to 611 separate documents.

In the United States it is a rare instance when interest is paid for settlements involving aboriginal title. The only time that a tribe is considered entitled to interest is when the tribe's title to the land was previously recognized by the Federal Government. One of these was in the Sioux-Black Hills claim. In this case, the gratuities that had been paid by the United States would have extinguished the Sioux claim, and they would have gotten zero for the taking of the Black Hills. Thus the offsets or gratuities had to be waived to maintain the base judgment of \$17.5 million. With authorization to pay interest, the whole of the claim jumped to 100 million dollars.

The Sioux case is an absolute case in point of the very complex, delayed and uncertain process which the United States followed in what we would call our claims policy during the earlier part of this century, and really, almost right up to now. Basically, the Black Hills case comes out of the Treaty of Fort Laramie that was entered into in 1868 in which the Sioux Nation was guaranteed all of the land west of the Missouri River in the states of South Dakota, Montana, Wyoming and even down into Nebraska. In 1874 there were rumors of gold in the Black Hills, and General Custer led an exploration into the Black Hills to ascertain whether this was true. Of course he found some and promptly told everybody so that they would come in. In 1876 we attempted to negotiate another treaty with the Sioux, getting them to cede the Black Hills. The 1868 treaty had provided that no further treaties could be entered into without the consent of at least three-quarters of the Sioux males. In fact, we only got ten percent of the Sioux males to vote on the 1876 treaty. Clearly it was not legal, so they took the agreement to Congress and we ratified it, enacting it into law. The result was a reduction of the Sioux reservation, and the removal of the Black Hills out of Sioux lands. The Sioux, needless to say, immediately complained, they continued their complaints through legal processes, seeking redress for what had happened. Beginning in 1877, and continuing all the way until 1920, when they finally got the Special Jurisdictional Act. It took them that long to even have Congress respond to what had been done to them. With the Special Jurisdictional Act of 1920, the Sioux filed their claim in the Court of Claims (1923). In 1942, the Court of Claims dismissed the case on jurisdictional grounds.

In 1950, after the Indian's Claims Commission had been formed, and a broader base for claims established, the Sioux once again filed this claim. This led to the judg-

ment in 1974 for \$17.5 million, the Court of Claims reviewed the Indian claims judgment and held that the Tribe was not entitled to any interest on the taking. The Supreme Court affirmed the Court of Claims' ruling and in 1978 we had to pass legislation to allow for the right to pay interest. This permitted the tribes to go back to the Indian Claims Commission to seek interest, which they did. As a result they were awarded five percent simple interest from the date of the taking and that resulted in a judgment of about \$110 million, which to date, has not been distributed to the tribes. Essentially the policy of the U.S. on the claims resolution has been one of simply awarding monetary damages for those things that have been taken. The term extinguishment was used this morning. Obviously this was the underlying premise of the United States federal policy on Indian claims. The presumption was that the taking of Indian lands was valid and that Indian titles would be extinguished as a result.

This leads us to why I was probably invited here today. That is the idea of settling with Indian tribes, in what could be called, a "comprehensive way." The very thing that happened in James Bay. What the Indians are saying is that they want their governments recognized, they want jurisdictional parameters worked out, and they want economic development funds. The very things that are being sought in the east coast settlement legislation. The Sioux Nation, and others, are saying that they do not want the money. In fact, they are refusing to take it. The fear is that if the money is distributed, then the tribes will lose their legal, and perhaps moral right to outstanding claims. The Indian people are trying to bring some clarity and definition to their government, economic development and to the policy of the United States Government with respect to the handling of past claims.

In summary, we in the United States do not have a claims policy like Canada, which apparently is somewhat of a systematic approach. Ours for the most part, is unclear. This has, over the years, led to substantial displeasure. Perhaps we are on the verge of adopting what has been evolving over many years, so that the adversarial role, commonplace among and between tribes, individuals, local communities, private land owners, and the United States Government will become a thing of the past.

An Historical Perspective Native Claims in North America

by

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In this review, I will start a little bit before 1867, the year of Canada's Confederation. Indeed, I will go back to 1492, when Columbus first set foot in the West Indies. I mention this because we will be celebrating this momentous occasion in 1992, just eight years from now. We still have not worked out a fair accommodation between what has become the dominate segment of today's North American population, and the Native people who were here when Europeans first arrived.

There is a lot to be learned from reflecting on the events that occurred in the years following Columbus' landfall because it was the Spanish who were the first Europeans to



Thomas Berger

reach the new world. They subjugated the Indian people of the West Indies. In fact, they actually exterminated them. There were about ten million Indian people in the West Indies in 1492, within twenty years, virtually all of them had been wiped out. The Spaniards followed a policy of genocide. The Spaniards captured the great Aztec and Inca kingdoms of Mexico and Peru and within a very few years had wiped out the Indian people, and they were not very concerned. They were not very concerned about the justification for all of this. Of course, if you find a new continent, find a race of people living there with their own institutions, with their own society, their own economy, their own religion, their own language, and you take their land from them and enslave them, sooner or later, if you pretend to be law abiding you have to figure out some justification. In the days following the Spanish conquest the Spanish scholars, clerics, and lawyers, did try to figure out a justification. And in fact the King of Spain was so concerned that in 1550 he directed that there should be a debate at one of the great universities in Spain. The King of Spain brought his scholars together and stated: "I have got a question I want you to answer." "What justification is there for me, the King of Spain, to have all these great lands of the new world acquired in my name"? "I want you to come up with the answer to that."

Sepulveda, who was a conventional scholar of the time said, this is simple, we represent progress, we have God on our side, and it is in the best interests of the Native people of North America that they should be our subjects, working for us. It was necessary that we should enslave them because, some races are inferior to others. The opposite point of view was put forward by Las Casas, who was the priest who had championed the cause of Native people of the West Indies. He said, no, these are human beings like ourselves and they were placed here on the earth by God and they are our brothers and sisters. He said, "I have lived most of my life in the new world and I know these people and they have their own way of life, their own way of bringing up children, their own way of educating their children, their own religion, their own view of the world." And he said, "we have no right to do this." He said: "I am afraid King, that the answer to this question is not a simple

one. We must obtain the goodwill of the Indian people. Only in that way can we have any right to participate in the life of the new world." The King never did get an answer because the council, the council of scholars and great men who had been assembled to answer this question, decided that it was unanswerable. They felt that, they could not in justice, decide that Europe had a valid claim to the new world and yet Europe was prospering on the strength of gold and silver brought from the new world. Colonizing ships were leaving every day to populate the new world. How could they say we have got to pack up and everybody must come back home. So they adjourned without ever deciding. The King, in a year or two, went into a monastery and spent the rest of his life there. Forgive me for pretending to know a little about this, it is just a pretense, but if you read the debate between Sepulveda and Las Casas, American scholars have recently unearthed all of these materials and translated them. You will find that Sepulveda says, "look, it is in the best interests of these people, they are uncivilized and they do not know who Jesus is, they are running around in loin cloths, it is in their best interests that we should bring them all the things that we know, such as armaments, manufacturing, agriculture, science and industry, and so forth. Anybody who says that they are entitled to rule themselves, that they are entitled to keep the land, is doing them, in fact, a disservice."

On the other hand, Las Casas said: "if you look closely at these Indian societies, you will find that they deserve to be compared with the Greeks and the Romans." They have very sophisticated notions of personal and human relations, and they have developed agriculture." Because he was talking about those societies in the equatorial regions of Latin America, he said: "they have pyramids, larger than those in Egypt. I do not know why people wanted to build pyramids, but if that is a test of civilization they came out winners." He said: "they have mathematics and astronomy and they have their own idea of God. These societies should be considered on their own terms and we should deal with them, as one society to another, as one civilization to another, in doing that they are authentic, they are legitimate."

The debate among the scholars of early Spain is most interesting, because I find in my travels around the United States and Canada that people are still arguing these two views. In the United States they only got around to settling comprehensive claims in this very decade, almost five hundred years after the King of Spain had asked the question which opened this debate.

We owe a lot to the U.S. justice system for drawing attention to the moral and equity of the issues surrounding this debate in our time. Because, it was the different views that were put forth in answer to the King of Spain's question, which continually was used to justify the acquisition of lands by Indians. If you read the judgments by Chief Justice John Marshall, back in the 1820s and 1830s, you will find that he asked himself the same question. What right did adventurers from Europe have to acquire dominion over the land and all its people, who had their own governments and societies? Marshall was skeptical of the whole theory of discovery. He indicated the need to rectify this. The United States with its own laws and the foundation that had been erected, had to enforce the laws and at the same time had to integrate Indian societies into the new federal scheme devised by the founding fathers. Judge Marshall developed the idea of domestic dependent

nations. He propounded the theory that the domination of European power and the sovereignty of European power, did not extinguish the title of Native people to their land.

The theory of aboriginal title propounded by Chief Justice Marshall back in the 1820s and 1830s was accepted in United States law thereafter. The idea was not honoured, however. We continually found ways to get around it, until 150 years later with the Calder case in Canada (1973). Until the Calder case was decided by the Supreme Court of Canada, the idea of aboriginal title had not been acknowledged in Canadian law. The Calder case led to a change in policy by the Federal Government, and it is interesting how rapidly that the change took place. Prime Minister Trudeau in 1969, here in Vancouver, made a speech in which he said that: "that it comes to aboriginal claims by Native people in Canada, for aboriginal title, our answer is no. We cannot build a nation on historic might-have-beens." He said: "Indians and Eskimos and Métis must take their place as ordinary citizens of Canada, and if they are poor, they will be dealt with like other poor people. If they require to be educated they will achieve education, just like everybody else does and they will be Canadians, with a capital C." By 1973, owing to the case that the Nishga brought (in Frank Calder's name) and the movement by Native people all over Canada, the Trudeau government had agreed that it would, in fact, acknowledge aboriginal title and would consider the comprehensive claims of the Indian, Eskimo, and Métis people.

The biggest distinction between Canada and the U.S. in terms of settling these land claims is that in the U.S., (I hope I am right in saying this) the whole of the Lower 48 is pretty well blanketed by treaties. In Canada up until the 1960s and 1970s we had about half our country covered by treaties (Ontario and the western provinces) but the others did not. The French did not make treaties with the Indians, so Quebec had no treaties to speak of. In British Columbia, where enlightenment has always prevailed and which was really the last province of Canada to be settled, there are no treaties. In this regard, it is of interest to note, that because of the late settlement of B.C., the representative institutions of government were not established till the 1850s and 1860s. The people that dominated these institutions were the merchants and farmers of Victoria and Vancouver Island. They were not going to make treaties with these people because it was felt that they are clearly inferior. We will decide where Indians are going to live and that, in fact, was the reason for the policy establishing Indian reserves on a unilateral basis in British Columbia. Then, of course, the Inuit never made treaties so that the one-third of Canada which is occupied by the Inuit was never subject to treaty. As a result, we had this dichotomy that emerged in the 1870s. We had the comprehensive claims process that emerged relating to the non-treaty areas of Canada, and the process of specific claims which applies to treaty violations. I suppose, similar to the Indian Claims Commission and the Court of Claims in the United States.

In Canada, this whole land claims thing seems to be achieving its contemporary denouement in the Arctic and subArctic regions. I say this because the principal beneficiaries of the Nishga case in Canada — there have been many good things flow from it — are the Indian, Eskimo and Métis people of the Northwest Territories and the Yukon. In those areas negotiations have proceeded because there are only two parties: the Federal Government

and the Native people themselves.

In British Columbia, we have the provincial government which owns the land — in Canada it is the provinces that are the owners of public land — the Federal Government and the Natives. That means you cannot make a settlement of a comprehensive claim in British Columbia without the participation of the provincial government. I have been away a lot, but I think I am right in saying that they have refused to acknowledge an obligation to settle comprehensive claims based on aboriginal title. This has meant that progress has been made in northern Canada, but not as rapidly in the rest of Canada.

Particularly for settling northern claims in Canada, we have had the advantage of the Alaska claim to learn from. In the United States, having blanketed the Lower 48 with treaties, it was realized in the 1960s that they had to settle the claims of the Eskimo, Aleut, and Indian people of Alaska. With certain impetus provided by the oil and gas industry, which wanted to build a pipeline across Alaska from Prudhoe Bay to Valdez, the settlement legislation went through the United States Senate and the House back in 1971. The legislation is unique because there was nothing like it before, and nobody has followed it since. Because what Congress did was establish a concept that would allow government to avoid dealing with the tribal governments. The 200 Native villages in Alaska were not viewed as tribes but rather as little villages. Since the intention was to bring Alaska Natives into the mainstream of American capitalism and commerce, it was deemed suitable to set up corporations to hold the land. The approach was to set 44 million acres aside for the Native people of Alaska, set up twelve state chartered regional corporations, and create 200 village corporations. Every Native person was given 100 shares in the corporation. The Native shareholders elect the board of directors, and elect a president. The officers of the corporation are the board of directors responsible for the management of the land.

In an effort to protect Native interests in the corporations, and to allow Natives to gain experience in operating the corporations, Congress imposed a twenty year restriction on the sale of shares. In other words, the shareholders of the corporations cannot sell their shares for twenty years. After that time the shares can be sold, and the land becomes taxable. So after December 17, 1991, when the twenty years runs out, all shares will be called in. On January 2, 1992, new shares will be issued which can be sold in the open market.

As the situation stands right now, Native people must retain their 100 shares until, they are called in, otherwise they are of no value. However, after 1991, a person in debt, might lose his/her shares, through court judgment, if those owed money decide to sue. Since shares are of no value unless they can be sold, individual shareholders might decide to sell their shares. Under such circumstances, somebody (anybody) could go around from house to house in one of these small villages, making an offer for shares and walk away controlling the company. A large non-Native corporation could make tender on January 3, 1992, offering money for all the shares. The result might very well be that non-Natives will end up owning large blocks of land. This can be done by buying Native shares. Someone wanting such control, does not even have to buy a majority of the issued shares. As most of you know, most great corporations in Canada and the United States are owned by minority shareholders.

When the Inuit and the Cree settlement was made in the northern Arctic in 1975, the Vice President of the regional government (Mark Gordon) had a look at the Alaska settlement, and indicated that he did not want this type of settlement. In this Canadian situation, the Cree and Inuit set up their own corporations. The membership of these corporations is made up of members of the tribes. They become members when they are born and cease to be members at death. There are no shares that are transferable, so the land which is held by the corporation, will be held in perpetuity by the Cree and the Inuit.

In Alaska, all the land, the 44 million acres, is held by the corporations, so it is possible that after January 2, 1992, most of the corporations will be taken over by outsiders. The land will flow year by year into the non-Native sector of the economy. The other thing that is peculiar about Alaska is the land can be taxed. Most of the villages in Alaska are engaged in subsistence hunting and fishing, just like the villages in northern Canada. Of course, the land that you use for subsistence hunting and fishing does not usually generate a surplus so there is no money with which to pay a tax. And the State of Alaska, which has been very prosperous, owing to revenue from oil, has found that starting just about 1991 the oil revenue will decline. They may have to look to other sources of revenue. They abolished the personal income tax in the State a few years ago. There is no state tax on land, but if in the 1990s, they are looking around for sources of revenue, the 40 million acres held by Natives would be an obvious target for a state tax. Even a very small tax per acre might turn out to be a tax that the corporations could not pay. You have to have money to pay taxes. If you do not have the money to pay the taxes, then the state can take your land away for default payment of taxes. The Cree and the Inuit in James Bay decided to reject that model, although they found some of the precedents established in Alaska were useful.

The settlement in the MacKenzie Delta benefitted from the Alaska settlement as well. The 2700 Eskimos have negotiated a settlement that gives them 38,000 square miles. This is a much larger per capita settlement than what the Native people of Alaska received. Important however, is the fact that Canada has agreed that the lands given to the Eskimos cannot be taxed. Canada has agreed to never tax those lands, except for improvements. That means that as long as the lands are used for subsistence hunting and fishing activities, and there are no improvements on the land, there will be no taxes. If the land is used for oil and gas development, the Federal Government will have to have their share. But as long as it is used for subsistence hunting and fishing, the Federal Government will never impose tax.

The Inuvialuit in the MacKenzie Delta also adopted an approach similar to what was done in James Bay. That is, a membership corporation which has no shares. The other thing is, that over an area three times as large as the lands they hold in fee simple, (an area of about 150,000 square miles) they have been given exclusive right to take polar bears, black bears and grizzly bears. They have exclusive right to take muskox over the whole area and if you look at a map of Canada, it is an area about half the size of Alaska. These 2700 Inuit also have an exclusive, racially based, subsistence preference over the whole area. This includes not only their 38,000 square miles, that they have been awarded but an additional 168,000 square miles. This settlement, that comes into force this month, is one that

shows the lessons that have been learned from all that has gone before. The emphasis is not so much on owning land in fee simple, because if you own 100,000 acres of tundra, it is not as if real estate developers are going to come in and start offering you thousands of dollars for lots. The MacKenzie Delta settlement emphasizes access to resources, that is access to fish and game, the traditional means of subsistence for those people.

Might I just conclude by saying that all of these settlements in the Arctic and subArctic regions are, of course, in many ways far more generous than what was ever achieved in the Lower 48, or in the provinces of Canada, because that was the last frontier to be closed. The last place that we Europeans went to settle, and the needs in the north are different. In the Arctic and subArctic regions you cannot grow wheat on the tundra so it is possible to work out settlements that still leave the great herds of caribou, the marine mammals, and the other resources that people depend on. It is still possible to allow settlements which reflect the needs of the Native people. More importantly, for our purposes here today, is the fact that we are still struggling with the question that was debated between Las Casa and Sepulveda. What is to be done, what is a fair accommodation for those of us who are of European descent, for the original inhabitants. Every generation thinks that it has struck that question from the agenda, and then it turns up again. It may be that we are making a more sincere effort to answer that question in our own generation than was attempted in the past.

SECTION II

Land Claims in Practice: The Nature And Legal Recognition of Aboriginal Title

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The Canadian Experience in Implementing Land Claims

by

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The Canadian experience in implementing land claims is very limited. In fact, it is limited to the James Bay and the northern Quebec and the north-eastern Quebec agreements. The first of these two agreements was signed in 1975, and legislated in 1977. The second one, the north-eastern Quebec agreement, which deals with the Naskapi of northern Quebec, was signed three years later in 1978. So in fact, we are dealing with a very short period, a very limited experience, but it is an experience which ought to teach us a few lessons. I will not pretend to list the lessons that the claimants and beneficiaries should take from the implementation of these claims. I will try and point out some factors in which both sides to any settlement should bear in mind and be prepared.

It is worth noting that the James Bay Agreements ran into trouble in terms of implementation very early in the process. In fact, as early as 1980 the Cree and the Inuit listed a number of provisions under the Agreement that, were not being dealt with, or at least, not being dealt with adequately. As a result, hardly five years after the Agreement had been signed, it ran into difficulties. So many difficulties that, in fact, the Federal Government put together a review group, a study group. This study group was asked to look at the grievances expressed by the Cree and the Inuit to try and determine what the difficulties were and to recommend solutions. This review was headed by my predecessor, the Assistant Deputy Minister of Corporate Policy at the time, John Tate, and a number of other representatives from other departments in the Federal Government. That review led to a report, the draft of which was circulated to the Inuit and to the Cree for comment. There was a long process of consultation, discussion, and clarification. Finally the report came out in 1982. It is a useful report which I understand can be obtained from the Department of Indian and Northern Affairs, entitled: *James Bay and Northern Quebec Agreement Implementation Review*. It also is known commonly, at least in my part of the world, as the Tate Report. I recommend this book to all those of you who are interested in the claims and the implementation process, particularly to those claimant groups who are gradually moving toward a settlement. The book pinpoints a number of weaknesses, on both sides (government and the claimant group), that ultimately affect implementation. Of interest here, is the fact that as a result of the Tate Report, the Cree and Inuit were awarded \$60 million, because of expenses they incurred as a result of slow implementation.

The thing I would like to address in this presentation is what I refer to as the "morning after headache." After a settlement has been under negotiation for several years, and an agreement is concluded, there is a feeling of elation which is proportionate to the frustrations of the previous years. But once the claim is settled, the agreement is reached, signed, sealed, legislated, there is a morning after which is sometimes difficult to deal with and even painful.

These headaches are experienced on both sides, by the beneficiary group as well as by those on the government side. The principle cause of these headaches after the settlement is the frustrations.

There are a number of factors that contribute to this frustration. The first and most immediately visible is the frustrations that have to do with long years of negotiations. During the negotiations period, the expectations amongst the constituents of the beneficiary group become very high. These negotiations often go on for a very long time. As a result, once the agreement is signed, those who are party to agreement expect immediate visible results. In other words, they expect the world to begin to change. When the universe does not immediately begin to unfold in a way which is consistent with the high expectations that were established during the period of negotiations, impatience and frustration become apparent.

The second frustration factor, is what I candidly refer to as the inertia of government. The Canadian Federal Government, like governments everywhere and all large administrations, has an inherent inertia. The constituents of the beneficiary group, already impatient, is confronted with this inertia. This inertia is unavoidable because, having completed the claims settlement, a new relationship between the beneficiary group and government begins. A new relationship requires new attitudes on both sides, yet the same old people are involved, the same traditions of the bureaucracy are in place, and hence, the same institutional attitudes. It is easy to affect changes in the attitudes of individuals, after all they understand from first hand experience what is necessary, but it is extremely difficult to change the attitude of an institution. The old structures remain the same, and government has difficulty restructuring. Thus, the institutional attitudes, that are part of the overall structure of government, contributes to an inertia that causes frustration.

The third frustration factor has to do with the problems of interpretation of the negotiated settlement agreement. By the very fact that an agreement has been negotiated over several years, the meaning of what has been agreed to becomes clouded. It can become biased. The interpretation of what has been agreed to might be quite different in the minds of those who participated in the negotiations. In some cases, these differences may result from the fact that some participants may not have been present at particular negotiating sessions. In others, it may be the result of the negotiating teams agreeing to leave certain language unclear or in general terms, simply to avoid unnecessary delays that would impede progress. There are, as well, differences in interpretations that result simply from the fact that the two main parties to the negotiations, the government and the beneficiaries, have different interests, and that each party chooses to interpret the agreement in a way that will best serve the interests of the group that they represent. Then there are, of course, the gaps in the final agreement, that almost always lead to discrepancies in interpretation.

The fourth reason for frustration is the complexity of the structures that are set up because of the agreements. In the agreements that have been reached thus far, James Bay and COPE, there have been dozens of boards, commissions, and committees provided for within the substance of the agreements. Some of these committees, boards, commissions are large and others are small, but each has a specific purpose. The responsibilities of one may affect the responsibilities of another. It may be that certain plans

will have to be reviewed by more than one committee before action can be undertaken. The whole process can take time and cause delay. Therefore, the complexities of the structures that the claimant groups, as well as government, have to deal with, is a major factor in contributing to the "morning after headache."

A fifth factor, which is related to the complexities of the structures, is the shortage of trained staff. The number of committees, the number of new activities in which the beneficiaries have to become involved, is often beyond the capacity of the claimant group. It takes many, many years before enough trained people are available to properly provide input into these committees. The beneficiaries, of course, can take a slice by slice approach that limits full participation to only those committees for which appropriately trained personnel are available, and expand on the level of participation as trained staff come on stream. However, this in itself raises serious problems. For example, if you cannot provide immediate input to an environmental committee, things will happen and the beneficiary group will have lost the opportunity to participate in decisions which were provided for in the agreement.

A shortage of trained personnel is certainly one of the difficulties that the beneficiaries faced with the James Bay Agreement. I suspect that it is a problem in the Western Arctic claims settlement as well. Each of these two groups were represented by a super core team during the negotiations, but more than super negotiators are needed to put all the structures into place when the settlement is finally reached. Good people are needed, and if they are not part of your team, they have to be acquired. It is the necessity of having to acquire outside people that raises the risk that the beneficiaries, two years after final settlement, will be in fact, administered and advised to death by external advisors. Unless care is taken by the claimant group to train their own people, they will find themselves with a whole host of outside advisors who will end up administering the settlement for them.

A sixth frustration that contributes to the "morning after headache" is the nature of the business decisions that have to be made. There are large amounts of money that flow to the beneficiaries as a result of settlements. There is land, and other resources, and all of these require decisions with respect to their allocations and use. These investment decisions will ultimately determine the degree to which the beneficiaries will benefit from the acquisition of these resources. What does a group of beneficiaries do with \$10,000,000 all of a sudden? Certain skills are required to make such decisions, that are not available within the recipient community. Yet the constituents do not want outsiders making the decisions for them. The beneficiaries want a say in the level of risk they are willing to take, the amount of return that will be generated, and the suitability of the investment with regard to their own specific situation. This causes a lot of dilemma for the community causing difficult political situations, and further adding to the frustrations that result from land claims.

Finally, there are the frustrations that are caused by social changes within the communities. No community, not Native or any other, can become the recipient of large amounts of money and resources without experiencing certain social changes. These changes have been witnessed in James Bay and in the Northern Quebec agreements. For example, I visited Chisasibi, previously known as Fort George. As a result of special circumstances — a dam had

to be built — the entire community had to be moved a mile or two to a new site. A new community had to be established with new buildings, new facilities, such as a community centre, a new school, etc. Consequently, there was deep social change. The generation gap between the older generation and the youth became more pronounced. There were youth problems, family problems, problems with social structures, and problems of adjustment. Many, if not most of these problems are attributable to the settlement, and for the most part, could not have been avoided.

The point I am trying to make here is not that claims settlement is not a good thing. There is, in those situations where settlements have been completed, a feeling of accomplishment, a positive feeling which gives optimism for the future. The recipient community has acquired some tools they hope to use to participate more directly in the regional, national, and international economy. The community will be able to influence their own future and determine the future of their children. The important point is that the parties to the agreement should have realistic expectations about the difficulties associated with claims settlement and make plans to avoid the major pitfalls before final settlement takes place.

In closing, I would like to stress that the easiest part of a settlement is the money part. I am not saying that the money part of the agreement is not without its difficulties, only that compared to the soft edged provisions the money part is relatively easy. The really difficult aspects of a settlement are the soft edged provisions that provide for participation in the management of resources, self-government, or interfere with other adjacent communities. When it comes time to deliver on these soft edged provisions, the risks are high that the settlement will end up being only a transfer of funds and nothing else. So, I would urge all of us here to look very closely at the way these are implemented, to avoid the downside of settlements that I have outlined for those of you here today.

Claims Settlement in Practice

by

Ted Wilson

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I would like to share with you, here today, some of my thoughts and experiences on claims as they relate to our experience in Ontario. As most of you are probably aware, there have been no comprehensive claims settlements in Ontario during modern times. There are some claims, seen by the claimants as comprehensive claims, but none of these are at the settlement stage. Therefore, when I speak of claims, I think in terms of injustices, or things that are seen to be injustices. Further, I think it should be recognized that we are not only dealing with land, but the many things that flow from the land. This is consistent with what I feel is the view that Native people have of claims. Natives tend to think of the land as a complete entity, which includes the game, the fisheries, the trees, the water. We should all see claims in these terms and not only in the context of a discrete resource. We should see claims as including all of the resources I referred to above, as well as the integrated administration of these resources,

self-government, and the establishment of institutions referred to earlier by Clovis Demers.

When we talk about claims settlement in practice, we have to do this with a view to the objective of claims settlements. This will be the topic of tomorrow's discussion, so I merely state here that the objectives of claims settlement have to be clearly defined if we are to achieve success. Furthermore, I do not believe that claims settlements have only one objective, but many of them. Not all of them relate directly to rights, or what we refer to as aboriginal rights. In actual fact, I think we would all agree that we do not have an agreed upon definition of aboriginal rights. Despite this we have done fairly well in many respects. My judgment is, therefore, that even though we may not have such a definition in the near future, we should agree to continue to implement those parts with which we can agree, rather than hold off settlements until we have full agreement. In other words, go ahead with those things with which we can agree rather than hold up the process.

In Ontario we have a number of things that are issues which are viewed as part and parcel of claims, with which I do not necessarily see as related to claims. However, I suppose it does not matter because they are things with which we must deal, and things that eventually will have to be resolved. One of the outstanding issues is the matter of dealing with land that once was surrendered by Indian people to be sold for the benefit of the bands. This land was surrendered to be sold, but has never been sold. Some of this land was surrendered more than one hundred years ago and has never been sold. I know of no disagreement among the bands, the Government of Canada, and the Ontario Government about allocating the benefits from these land transfers. I think that, notwithstanding some legal issues, the benefits from these transfers should accrue to the Indian people. However, there is a major job that has to be done in sorting out the unsold from the sold lands; sorting out which surrendered land has become part of the local township fabric; determining which of these lands is held in the private sector, or held by the Crown. Some Indian people have demonstrated patience, but it is something that is frequently referred to in conversation, and something I think you will agree, is unfinished business.

In closing, I would like to repeat that claims not only pertain to land, but all the other things referred to above. I mentioned earlier that we in Ontario have not had any comprehensive settlements in contemporary times, but we have had such settlements in the past. Some of the earliest in Canada were in Ontario. They started in the late 1700s and went through the 1800s. These early settlements varied in complexity, in comprehension and in the satisfaction of parties concerned. They were not perfect, but in retrospect, they did give recognition to the need to have government deal with Indian people to resolve these claims with more than just land in mind.

Washington State Indian Settlement: Treaty Fishing Rights¹

by

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My purpose, here today, is to provide some insight into what has happened with respect to Indian fishing rights in western Washington State over the last ten to twelve years. Before proceeding with this, however, it should be pointed out that the inclusion of the Washington State situation, in a discussion of claims settlement, is a bit anomalous, because what has occurred in Washington is a result of legal decision and not the result of negotiated claims settlement. However, I think perhaps that it may point out some of the pitfalls of doing things through the legal system, as opposed to through negotiations, when we review how things have turned out. It also should be noted that the resource we are talking about is located in western Washington, and is restricted to fish — primarily salmon. In this presentation, I will first of all provide a brief description of the Boldt decision for those of you not familiar with it, then I will briefly discuss the positive and negative results of the decision. Finally, I will discuss how the lessons learned as a result of Boldt might benefit Canada.

Boldt Decision

In the mid 1800s there were a series of treaties signed in western Washington. The treaty area is essentially the Columbia River drainage, which includes those watersheds that flow into Puget Sound and directly into the Pacific Ocean. Under the condition of these treaties, the Indian people gave up their rights to most of the land of Washington in exchange for several considerations. One of these considerations was that the Indian people, party to the agreement, would retain the right to fish in common with other citizens of Washington, at usual and accustomed places. It should be recalled, that at that time, the Indian people dominated commercial fishing in Washington. It was only after the non-Native population grew, that the Indian share of the commercial catch slipped from almost 100 percent to in the neighbourhood of seven percent. In any case, as was pointed out by Mr. Demers in his presentation, it is sometimes the phrases used in agreements, which ultimately result in cause for concern. It was the use of the term "usual and accustomed places" that ultimately became quite critical in determining Indian fishing rights in the courts.

The intention of the legal action that resulted in the Boldt decision, was to clarify what the wording of the treaty meant. After three years of research and testimony, there were all kinds of questions. Where and what are usual and accustomed places? What, in terms of total catch does usual and accustomed mean? What does in common with mean? Judge Boldt, in his decision, decided that "in common with" meant that the Indian tribes were entitled to 50 percent of the fish passing by usual and accustomed places.

Subsequent to Boldt

Prior to the Boldt decision, the State was managing their fisheries so that virtually all of the harvest was taken before entering the waterways. The result was that few fish,

¹ See Howard Horton pp. 53-55.

that were not needed for spawning to perpetuate the stocks, got back into the rivers, where usual and accustomed places were located. This led to further legal action on the part of the Indians. Eventually after considerable hassle back and forth, the Federal Court decided to retain jurisdiction in the case. This meant that the tribes and the State were able to appeal each other's management decisions regularly. They do so regularly. As a result, there are many decisions under appeal.

The Current State of Affairs

The salmon management system, in the State of Washington, involves several agencies. The primary ones include: The Fisheries Management Council, which manages from the three mile to the 200 mile limit. The State of Washington Fish and Wildlife Agency, which manages inside the three mile limit. The Indian Fish and Wildlife Agency, that results in each tribe managing their particular fishery. There are, as well, several other agencies involved, so that by the time they get back to the spawning grounds they pass through as many as seventeen different management jurisdictions.

The Results of the Boldt Decision

On the positive side:

- (1) The Indian catch has risen, especially for sockeye, which has risen very significantly. Overall it has risen from five to eight percent to almost 33 percent in 1981. In some cases, Indians are catching up to, and exceeding 50 percent of the catch.
- (2) As a result, the Indian people are enjoying more money, and consequently, greater independence.
- (3) The members of Fisheries' specialists and support staff involved in Fisheries' management has increased. More information on stocks is available faster, to support improved management. There also are strong indications that stock abundance has increased.
- (4) Indian people are able to intervene more readily on projects that affect fish survival.

On the negative side:

- (1) There were the "morning after problems" which were outlined earlier by Mr. Demers, such as changes in attitudes when dealing with new resources and hydro-electric power. Related to this is the fact that some individuals have benefitted and others have not, which in itself causes problems.
- (2) There has been an increase in the number of fishing boats, which further exacerbates what was already a serious situation prior to the Boldt decision, where too many boats are chasing too few fish.
- (3) The management system has become over complex and expensive.
- (4) There is no provision for agreements between tribes, thus the bottom-up approach, where every tribe determines his own catch and assesses its own results creates problems which will probably increase in future.

Summary

In summary, I would like to say that the Washington example is interesting to deal with because participation in the fishery has been increased, the level of community viability and the general well-being of the tribes has been improved significantly. The tribes, in general, have gained in terms of wealth and expertise and influence. The actual technical basis of, what would be called claims settlement, does not exist, but I think we can learn a lot from some of

the problems which have occurred. This is especially true in terms of future fishing agreements. We can also learn from the reaction which occurred in western Washington, which shows how bitter people can be about settlements. There was a significant amount of bitterness and some violence even over the Boldt decision and the resultant management changes. There are a lot of pitfalls to a legalistic approach, especially in the absence of cooperation and willingness to make the court decision work. There is a need to coordinate different groups. If groups are going to have management authority over a fishery, each group must have to cooperate and coordinate their efforts with other groups that deal with the same run. There is also a need to establish some method to resolve disputes, to deal with the problems. I would think that it should be possible to set up a review board which could deal with these disputes and root out some of the problems, which come up as a result of basic disagreement. The Washington settlement, if you want to call it that, is by no means perfect, but I think it has had definite benefits for the tribes, and I think there are many lessons that we can learn in terms of putting together settlements in Canada.

The Law in Relation To Aboriginal Title

by

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What I want to talk about briefly is the whole question of the importance of the law in relation to aboriginal title. One of the things which I think very clearly came out of the presentation in relation to the Indian rights to fish in the State of Washington, is that until the Boldt decision in 1973, even though there was a treaty which guaranteed rights, those rights in fact had been systematically denied and ignored for close to one hundred years. It was the court case which led to a settlement, albeit a settlement imposed by a Federal Court judge. In the same way in Canada, you can see the importance of the law if you look at the whole question of settlement of claims. The James Bay Cree had a legal right guaranteed to them, by legislation in 1912 — the Quebec Extensions Act. It was only when they went to court in the early 1970s that that right took on meaning. At that trial, the judge said that they had legal rights; they had an aboriginal title to lands. Further, he indicated that there was an obligation upon the Province to negotiate with the Cree. Even though this ruling was overturned on appeal, the law was sufficiently equivocal so as to seem to indicate that a case was there. In response, the Provincial Government of Quebec, rather than risk everything on the final outcome of a court case, agreed to settle. In the same way, the James Bay Cree, rather than risking everything on the final outcome of a court case, agreed to the settlement. And so the law in that regard played a very pivotal role in helping to determine what rights Native people had based upon aboriginal title.

If we go back to the same year as the James Bay case, 1973, we have to look to the Calder case. I am very happy to see that Frank Calder is with us this morning. That case

also plays a pivotal part in the modern era of settlement of claims, because as I will show you in a few minutes, the whole idea of aboriginal rights has a very, very long history. If you talked to lawyers in 1972 in British Columbia, or anywhere else, and said, "well, what do you think of Native peoples' aboriginal title?" The answer by most lawyers would have been one of the following: What is that? We never studied that when we went to law school! Aboriginal title, does that really exist? Even the Prime Minister, in 1971, talked about it as some kind of vague concept which really was not law. It was only when the Calder case went to the Supreme Court of Canada, that six judges talked about aboriginal title. However, even though they split on the question of whether it continued to exist in British Columbia, or had been extinguished, six of the seven judges agreed that it was a legal concept. They agreed that it had a legal meaning. It was within months of the decision that the Federal Government agreed to start settlement of outstanding Native claims. And so the court case and the process of settlement, which has now been with us in the modern context for the last ten years, can be traced directly to the Calder decision. In that same way, the James Bay settlement can be traced directly to the litigation instituted by the James Bay Cree. Also, in that same way, the Washington settlement, if you want to use those words, can be traced directly to the 1973 Boldt decision.

Having pointed out the critical importance of law cases in the settlement of claims, I want to just unwind a little bit and ask the questions: What is the law? What are aboriginal rights? What does it mean when the Canadian Constitution entrenches the existing aboriginal rights of Native people? Is there a shared understanding of what it means when the law says aboriginal rights? Does it mean the same thing as when Frank Calder and his people talk about aboriginal rights? In order to understand, perhaps it is important to go back several hundred years. If you want to know what aboriginal rights are all about in practice, as opposed to some esoteric theory, it is very relevant to look at what happened in the 18th century. In this century, Native nations had real power and influence in North America. If you look at the negotiations which took place in the 18th century between about 1720 and 1760, among the six nations of the Iroquois Confederacy and the American colonists and the British Crown, you get some sense of what aboriginal rights are all about.

What the British accepted was the fact that the Native people had, what could be termed a right to territorial integrity. Those lands which they occupied as their hunting territories, as the places they lived, were to be regarded as theirs unless and until they agreed to surrender them. Within these territories they retained the right of self-government. They retained the right to practice their own religions, to administer their own systems of land tenure, to manage their own resources. And in the treaties which took place in the 18th century, the various Native nations party to the treaties agreed to a form of association with the British Crown. Some of the treaties talked of a protectorate relationship, in which the Native nations retained certain lands as theirs. They surrendered certain other lands to the British Crown for settlement. And in relation to a third category of lands, agreed to assign certain land to the protection of the Crown in return for concessions. Thus, in all of this, there is a recognition of some reciprocal relationship in which the British Crown recognizes that Native nations continue to exercise their rights over lands which they do not give up.

That particular concept of aboriginal rights, the concept to territorial integrity, the concept of political self-determination, is very clearly expressed in the 18th century treaties with the Iroquois. If you look at the Royal Proclamation of 1763, you will see that this reflects the idea that certain areas of North America are recognized as areas of Indian interest. Areas in which Indian people retain all their rights, except those which they expressly give up. It is, in fact, a nation to nation relationship. Native people having the right to exercise within their own territories all the rights which the British Crown exercised within its own territories.

Of course that position of power, that balance of power, changed very dramatically at the end of the 18th century, and throughout the 19th century. As it was changing, for the very first time the courts of North America were faced with the question of what really is the law? The practical relationship between the Crown and the Indian was all very well, but if the courts had to decide, there was uncertainty as to the answer. It was during the 19th century that a number of very important court cases took place. These cases are important, because they are the foundation of modern Canadian law on aboriginal rights.

These important court cases first came to prominence in the 1830s, and initially did not involve Indian people. One of the curious things, not lost on Indian people, is that some of the most important cases on aboriginal title, were cases in which the Indian people were not represented.

The first of these important cases is a case called *Johnson and Graham's Lessee v. McIntosh*. This is a case where some speculators had bought land from one of the Indian nations in Illinois. Subsequently, that particular nation entered into a treaty with the Federal Government of the United States and surrendered certain lands, including those lands they had already sold to the speculators. The Federal Government, then made a grant to someone else and the question was, who owned the land, the people who had received the land from the Indians in the first place, or the people who had received the land from the Federal Government after the treaty? It was in that kind of context the court had to decide what rights to land Indian people have.

The second case (*Cherokee Nation v. State of Georgia*) that came up did involve Indians because what happened, was that one of the American states sought to annul the laws made by the Indian nations of the Cherokees. The specific question was whether or not the State of Georgia could do that, and if it could, whether in doing so it abrogated a treaty between the Federal Government and the Cherokees. The importance to the Cherokees was in the fact, that the treaty guaranteed their rights to their own lands. It guaranteed their rights to self-government.

It was within the context of issues like this, that the courts had to first deal with aboriginal rights. It was in these cases, and cases like these, that the doctrine of aboriginal title emerged. In some ways, these court cases can be perceived as an attempt to make sense out of the history of North America. The United States Supreme Court took the position that when the English first came to North America, and the settlers were granted charters to settle land, these charters determined the legal relationship between the English Crown and the settlers. They did not affect the rights of Native people. The Native people continued to exercise an aboriginal right to the lands, which they had traditionally occupied and that right continued until they surrendered those rights or until they

were conquered in a just war.

Moreover, the Supreme Court took the position that the discovery of North America gave the English the right to prevent the Indians from selling their land to anyone else. In other words, discovery gave the discovering nation what is called a preemptive right, only the discovering nation could acquire land from the Indians. The implication of this principle was, that when the English discovered Virginia, the English courts would not recognize an Indian sale of land to the Portuguese or to the Spanish. The discovery of that land affected the Indians in the English courts to the extent that the English courts would not recognize any sale to anyone else, but otherwise it did not affect Indian rights. They continued to own the land, they continued to be able to deal with the land as they saw fit, to administer their own laws, subject only to this one exception that the English courts would not recognize a sale to any other foreign country.

Another case, the *Worcester v. State of Georgia* case, the court went further and said that Indian nations continue, not only to own their land, but they continue to exercise their rights of self-government. The court talked of Indian nations' relationship to the American Federal Government as that of a dependent domestic nation, and it made the analogy between the Iroquois, the Cherokee and some of the smaller nations of Europe, in which for purposes of political convenience and economic assistance, ally themselves with a larger more powerful neighbour and put themselves under that neighbour's protection. They do not surrender their rights of self-government, they do surrender their lands, but they work out a relationship for mutual protection. And that was how the American courts characterized the relationship between Indian nations and the Federal Government. The Native people continue to exercise the right to ownership of their lands and resources. They continue to have the right of self-government, subject to the limitation that they cannot sell their land to anyone else, including private individuals.

This doctrine of Indian rights, since that time, has been cut down. Perhaps the most vivid illustration of this is the *Calder v. Attorney General of B.C.* case. It was with the *Calder* case in 1973, almost 150 years after the U.S. decisions, that the courts again examined the modern concept of aboriginal title. The *Calder* decision relied heavily upon these earlier U.S. decisions. The Nishgas had never surrendered their land, never entered into an agreement where they gave up their lands. In describing aboriginal title, the judge who ruled in favour of the Nishgas, indicated that the case rested on whether there had been any acts or legislation that took away title, or actions by the Nishga in which they had given up title. The court deemed that the Nishgas were not disputing the right of the Canadian Federal Government to take away their title, but rather that the Federal Government had never explicitly taken title away.

Quite clearly, the Nishgas do dispute the right of the Federal Government to dispossess them without their consent. However, so much had changed in 150 years from the original doctrine of aboriginal title to the modern doctrine, as the courts have come to interpret it, that the modern doctrine accepts the possibility that the aboriginal title of the Native people to use and occupy their traditional lands can be taken away without their consent. The major difference between the traditional historical doctrine, which was reflected in the treaties between the Iroquois and the British in the 18th century and those enunci-

ated by the American courts in the 19th century, and the rulings of the courts in the 20th century, is that if Native people can show that they have used and occupied their lands as their forefathers had done, then the law will recognize Native title, unless it has been extinguished. It can be extinguished under modern Canadian law without Indian consent. But the question is whether or not title has ever been extinguished?

With this, the courts have introduced a very major break in historical tradition. In other words, the courts have taken the position that consent is not required to take away Indian land. Of course, it should be understood, that it is the concept of consent that gives recognition to equality between nations. If you *cannot* have something taken away without your consent, you have equality. If you *can* have something taken away without your consent, you do not have equality. That is the major difference between the modern interpretation of aboriginal rights and the historical interpretation of aboriginal rights.

Aboriginal Rights As Interpreted by B.C. Indian Leaders

by

Joe Mathias
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In January, 1982, the Indian Chief leaders of British Columbia (196 in all) assembled in the Vancouver Indian Centre to discuss aboriginal title and comprehensive land claims. At the time, this was a fairly major achievement, because there were differences of opinion among B.C. Indians about comprehensive claims and aboriginal rights. In fact, at that time, we were embroiled in discussions on the patriation of the Canadian Constitution. Thus, the meeting was of considerable significance. The meeting, which took place over a four day period, resulted in laying out a long-term strategy for the Indians of B.C. on the approach that would be taken with both the Provincial and Federal Governments on the Canadian Constitution. However, of even greater significance, it was the first time that B.C. Indian leaders had developed and laid out a foundation for ownership based on aboriginal title. The cornerstone for ownership is, of course, aboriginal title, because what we were talking about — and are talking about here today — is the nature and legal recognition of aboriginal title.

A PRESENTATION WAS MADE AT THIS POINT IN CHIEF MATHIAS' REPORT

All that had to be said about our position in B.C. on aboriginal title, was said in the film presentation. I do not think I can improve upon that. But what I would like to say is that ever since 1982, the Indian leaders of B.C. have been attending the First Ministers Conference. We have a working group of seven people. Included among them is James Gosnell, and his respected competent colleague, Rod Robinson. The position that was developed at the 1982 meeting of B.C. Indian leaders has not changed. It will not change, as far as we can see, in future. The task we have set out for ourselves is simple, yet complex. It is to

entrench aboriginal title in the Constitution. From our point of view that is simple. The complexities arise, however, when we look at the position taken by the governments of this country. The position taken by government is that title and rights are vague, uncertain, and impossible to define. That is the war-cry of government over the past two years, and that is the same war-cry that the governments of the country have put forth for almost four hundred years. Their position has not changed.

Our position is clear. We want title, ownership, to our land and jurisdiction over that land. Title flows from rights. It goes beyond land rights, although land rights are important. Our claim is to rivers, the creeks, the seas, the oyster beds, the mountain tops, the wildlife and the forests. It is to educational rights, economic rights, political rights, surface rights, and below surface rights. It can be likened to sovereignty, if not sovereignty, then at least title. Title is everything to us.

The Indian people do not want to get involved in the legal abstractions of whether the white man would recognize title or not. White man will twist it around for ever and a day. In fact, they have been saying to us at the First Ministers Conference we do not understand, please define it further. We did define it. Title means jurisdiction and ownership of our traditional territories. Our government springs from the land, our government springs from title. It is an all embracing concept, it is an Indian concept, and it is our job to ensure that you people here at meetings with government representatives eventually come down to the point where you can say now we understand you. If that takes ten years, if that takes twenty years, if that takes 200 years, that is what we want.

Someone said to me, that the biggest mistake the white man made was providing us with an education, because without that education we would still be on the reserves. They would still be attempting to Christianize, to impose Christian values on our way of life. It is a mistake that this country and North America will have to live with. A man said a few words to me when I was growing up, who I respect very much, he is no longer with us. He lived here in Vancouver, where I come from. He said:

The white man may come and build the roads, and he may come and build buildings, their houses may go up the mountainside, and he may string those electric wires across those poles, but remember, no matter what he does you are still here. Your people are still here, they cannot take away your ability to live and survive in this world away from you, no matter what they do.

We will be here for a long time, we will articulate our point of view on aboriginal title and we will be advancing our positions at the negotiating table for a long time to come. It is our job to keep ensuring that at meetings of this nature, that governments understand that eventually our point of view on title will become firmly entrenched in the highest laws of this country. We will not give up our rights, our way of life, and our survival. We will not be abrogated in the future.

SECTION III

The Objectives of Land Claims Settlements

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The Objective of the Nishga Claim From a Nishga Viewpoint

by

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I have been talking to government people for 30 years and so I have had to increase my volume. I had a very soft voice at the start, but as the years rolled on I found out that I was not being heard, so I had to turn up my volume. It is not that the government is deaf, however.

As all of you know, I represent the Nishga Tribal Council and I am going to be talking about our ownership to 5,000 square miles in the Nass Valley that touches on the borders to the claim over in Alaska. In fact, I was just commenting now that we want some of our lands back that the Americans took when they established that A and B line, just to demonstrate to you what area we are talking about. We are talking about part of Alaska. We will deal with that when we are finished with the Canadian Government. Then we will have to go over to the other side and demand part of our territory back again.

In my discussion here today, I will be touching on, first of all, the history of the Nishga land claim. Secondly, I am going to be examining the concept of local government. Thirdly, I will outline the objectives, from a Nishga point of view, of what we want to see result from all the negotiations that we have been undertaking for the past eight years. Finally, I am going to be commenting on, and putting forth some alternatives to extinguishment. Extinguishment is a word I have heard a lot over the past two days in taking part in the discussions. We in the Nishga, through our legal counsel, have been researching the alternative to extinguishment. These are some of the topics that I am going to be touching on this afternoon.

Whenever my people come to a meeting such as this, we are confronted by assumptions and prejudices which have long stood in the way of our dealings as Natives. These assumptions and prejudices continue to stand in our way at the present time. These assumptions are implied even in the name of this conference and I heard it the other night by my colleague, Mr. Watts, when he referred to the term "towards Native self-reliance." This name suggests that we are not already self-reliant and self-sustaining. We have been both self-reliant and self-sustaining for countless centuries on this land. The problems which have arisen in the past century with respect to our self-reliance have been the result of the actions of the non-Native government. They have stolen our land and resources. These are very strong words, but they are the truth. Non-Native government attempted to ban our political and religious institutions, imposed restrictions on our traditional activities and economy, and treated us like children at best and often like animals. For example, when our ancestors first went to Victoria, they were told to go home after paddling all the way down to Victoria by canoe. The official that met them did not even allow them on the steps of the legislature in Victoria. Go back home, he told us, you are no better than animals. So I speak the truth. These attitudes were summed up by the words of one of the judges of the British Columbia Court of Appeal, who said in a famous Nishga lawsuit, and I quote:

In spite of the commendation of Mr. Duff, a well-known anthropologist of the Native culture of the Indian on the mainland of British Columbia, they were undoubtedly at the time of settlement, a very primitive people with few of the institutions of civilized society and none at all of our notions of private property.

Even though this statement was not adopted by any of the judges of the Supreme Court of Canada, who later considered our case, it nevertheless sums up one of the biggest problems our people have had to face, namely, the habit of the non-Indian ignoring historical facts. Of ignoring historical facts and attempting to deny our civilization and indeed our very humanity. The Nishga know that in order to see where one is going, it is essential to understand where one has been. It is necessary to build the future on a solid foundation of facts, rather than upon the shifting sands of fiction. Therefore, in order to explain the objectives of the comprehensive claims, land claims process, I must first of all briefly explain the facts which preceded us and led us to this point in history.

We, the Nishga people, have owned the land of the Nass Valley, as everyone knows, since time immemorial. For countless centuries my people have lived in the Nass Valley and have utilized its abundant resources. We have always practiced the potlatch. I heard this word again the other day, which asserts our ownership to our land. We have a culture and an economy which was always based upon sharing our resources with others, of establishing mutually profitable relationships. This was long before the arrival of the white man, yet, it was scarcely more than 100 years ago. As all of you know, the Nishga were the last to be in contact with the Europeans. In fact, I was not even aware that there was a world that existed outside the Nass Valley. That is how isolated we were. From the very first contact we had with the non-Natives, our people had requested and indeed insisted upon a treaty. We understood that it was necessary, in both of our interests, to have an

agreement whereby we would agree to share what we owned with a newcomer. This was not such a surprising tradition for our ancestors. It simply demanded that the British Government follow its own law and its own practice as recognized in the Royal Proclamation of 1763, and which was followed across the country until the white man reached the Rocky Mountains.

One of the first Governors, James Douglas, recognized the necessity to enter into treaties with the aboriginal nations and after entering into a few treaties on Vancouver Island, Governor Douglas requested more funds to help with this treaty making process. The Imperial Government denied him this money, but agreed that he should indeed negotiate treaties with the original nation. I think that one of the reasons they did not sign treaties with the rest of the west, was that Governor Douglas was broke. But rather than continue to abide by its long standing law and policy, the Government of British Columbia decided to simply sweep us under the carpet. It attempted to ignore us in the hope that we would simply go away. We were told that we had no rights, that we no longer owned the lands, that the lands now belonged to the Crown. Tiny reserves were established without our consent and without our recognition. The government told us that we were being given this land, but that we no longer had rights to the rest of our traditional territory. Our ancestors' reaction to this governmental arrogance was clear and unflinching. Chief David McKay, in 1887, stated:

They, the governments have never bought the land from us, or our forefathers. They have never fought and conquered our people and taken the land, yet they say now that they will give us so much land, our own land.

Chief McKay did not talk foolishly. He knew the land was our own. That our forefathers for generations, and generations before that, had owned the land around us. Chiefs have had their own hunting grounds, their salmon streams, places where they have got their berries. It has always been so. It is not only during the last four or five years that we have seen the land. We have always seen and owned it. If we had only seen it for twenty years and claimed it as our own it would have been foolish for us to claim it, but it has been ours for thousands of years. To this day, the Nishga have never, and will never accept that our title to the land has ceased to exist. We continue to assert it in our tradition — in our daily lives. Our President, as you know, is Mr. James Gosnell. He has sometimes blurted out that:

Show me a piece of paper where my people's signature of consent to our land was given. You cannot, because there is no such paper, no such document. You cannot show me a document that shows that we have extinguished our title to our land or have entered into a treaty.

There is no such document. The government should be feeling guilty about this.

In building our modern relationship together, it is essential that the non-Native understands that the Nishga people's entire line, our entire identity as Nishga, is one that is tied to the land and it cannot be otherwise. For more than 100 years our message has been the same. We have never said that the European should return to Europe. We have always said let us share, let us negotiate as equals, how we shall live together on this land. We have never said

we were going to chase anybody away or take back the land, this was our message to your early governors and to the various land commissions of the last century. It was our message to the Prime Minister at the turn of the last century. It was our message in our petition to the Privy Council. It was our message to the McKenna-McBride Commission. It was our message to the Supreme Court of Canada. It was our message to the joint Senate House of Commons Committee on the Constitution, in 1980. It is our message to those of you here today. The Nass Valley area of British Columbia belongs to us, we have never sold it, we have never given it away, we have never lost it in battle. We now wish to go forward and negotiate the land that non-Nishgas will have. We wish to reach an agreement on sharing.

Earlier I mentioned the potlatch. I cannot overstress the importance of this institution. The potlatch is a living, dynamic proof, of our ownership of the land and the continuation of our aboriginal title. For centuries, like the other aboriginal nations of the west coast, we have practiced this institution. It shares many functions, but one of the most important is to carry on our title to the land from one generation to the next. When I talk about aboriginal title, it is important that you understand what I am saying. When I say that the Nishga Nation collectively exercise ownership over our territory, I am referring to land titles and ownership in a sense which is not very different from the way Europeans understand the rights of an individual to his land. In our case, however, ownership is even stronger under a system of "phratry." The ownership is vested in a chief, and other members of the clan share the right to harvest resources of the land for their livelihood. Under this system, therefore, the land is always owned by the clan. When a chief dies, the most deserving member of the clan is chosen to receive this land. His title carries with it the responsibility to represent the symbol of collective clan ownership. The new chief takes over the responsibilities as head of the clan. He assumes ownership of the land and its resources, which are shared with other clan members. The name of the deceased chieftain is also passed on to the new leader. In recognition of the permanence of the office of a clan leader, every mountain, every valley and every waterway within 5,500 square miles of Nishga territory has been owned and occupied by a specific clan since time immemorial. Even today, we continue to practice and live with this traditional system. This underlines the importance of the potlatch.

I stress, once again, that the potlatch is not just a social and cultural ceremony of gift giving. In fact, it represents a way of registering land title within our traditional system. I want you to understand very clearly that when a chief passes on a potlatch, he is passing on title to the territory owned to the next in line. The ranking chiefs must be present to witness and to participate and to approve of this investiture. In that public ceremony our individual holding of land is reaffirmed to the chief in front of religious leaders and to the people who are assembled as witnesses to the event. The potlatch system continues today as a perpetual assertion of the title to the aboriginal parcel of land holdings within our collective traditional territory. The practice of the potlatch cost the chief and his clan a great deal of wealth. However, they have no choice. We have our tribal laws that dictate that we do this whenever a chief dies. They must carry it on to assert our ownership of the land. Would we continue with this expensive and difficult institution if we had lost our ownership or if our

title was gone? Therefore, given the importance of the potlatch, it is not surprising that many years ago your government tried to eradicate it by making this practice into a criminal offence. Many Nishgas, and other Native people, went to jail because the government sought to destroy our potlatch. The destruction of the potlatch to my nation, would be very similar to the destruction of the land title offices to yours. Where your people rely upon written proof of title in order to tell what land belongs to what person, my people rely upon oral proof of title and witness to the potlatch ceremony. It was and it cannot be stamped out because it is essential to our being, essential to our reaffirmation of title to the land.

Notwithstanding all of this, your governments have told you to close your eyes and to deny the truth. The governments insist on treating our claim as something that we lost in the past, rather than as issues which confront all of us today. For example, Prime Minister Trudeau, in rejecting any possibility of negotiating with us on the basis of aboriginal title, in 1969, said, and I quote: "We cannot have a society based upon historical might have been." This is especially ironic in as much as it was the Prime Minister who was denying historical facts, not the other way around. This sort of attitude finally forced us to go to your court in our search for justice. This resulted in the famous Supreme Court Calder decision of 1969.

As most of you know, in the Calder decision three judges of the Supreme Court of Canada ruled that our aboriginal title continues to exist. Three other judges said that while we once had aboriginal title, it was extinguished indirectly as a result of the early British Columbia Colonial Government decision to ignore it. The seventh judge sat on the fence, he did not rule on the substance of the case as aboriginal title, he ruled on a technicality. This technicality no longer exists today. But as a result of this court decision, the Government of Canada reversed its policy and agreed to enter into negotiations with us and with other nations. Unfortunately, the Government of British Columbia has refused to do the same, and to this very day insists that we have no rights, that our title to land was extinguished before Confederation, and that they will not participate in negotiations. They attend our negotiation meetings, but only as observers. They state, as every other Government of British Columbia has done before them, that they own the land and that we are restricted to the so-called use and benefits of tiny reservations, which were created against our will and which we never agreed to, nor recognized. This attitude of the Government of British Columbia is today, as it has been for the last century, the largest single stumbling block to reaching a just and honourable settlement of these outstanding issues. It is especially frustrating for us here in British Columbia. We, the Nishga, have spent a lot of money, gone to court with no support from anyone — not from the government, or anyone else. We have no settlement, yet settlements are being reached in the north. They have been reached in Quebec and in the rest of Canada years ago. In not too many years British Columbia may be the only part of Canada where treaties have not been entered into and where Native people are treated less well than in the other areas of Canada. This is the inevitable result of the attitude taken by the Provincial Government. In the meantime, we are continuing our negotiations with the Federal Government, and indeed, progress is being made. Progress is being made especially in the areas of fisheries.

In discussing our objectives in the negotiating process,

you must remember that we are presently involved in negotiations and, obviously, we cannot divulge the details of these negotiations. However, I can attempt to give you an outline of our objectives. The objectives from the Nishga point of view are clear and are based upon our identity, our nationhood, and our desire to share. I would like to emphasize the word "share," to share with the non-Natives. That is why my people say that we wish to negotiate a place in Canadian confederation. A place which will ensure forever the Nishga Nation's ability to remain a distinctive cultural and a recognized political entity. Let me stress, however, that we are not separatists. I want this clearly understood, we are not separatists. We wish to negotiate our way into and not out of Confederation. This is our basic objective. In so doing, we wish to clearly identify and define in the agreement our economic and political relationship with the other two levels of government. In this way, all parties will know precisely where they stand with clarity and with certainty. The time for controversy must surely be past. We sincerely mean that. We hope that as a result of our deliberations here that you will urge your government to bury the hatchet. We wish to protect within the agreement our traditional ways of life, including our ability to harvest, trade, manage, and conserve our own resources. We wish to protect our right to use our own language, religion, and culture. This means that we must insist upon the return of our cultural artifacts which have been taken from us over the last century and placed in museums in Vancouver, Toronto, New York, and across the world. We must also have full control over our children's education, health care, and other social services. We wish to ensure, forever, our ability to be a self-sustaining and self-sufficient people. This means that we must both control and benefit from any and all development which takes place within our traditional homeland.

We are often accused of being against all developments, of wanting to live in the past. Nothing could be further from the truth! We understand that the development of our resources is the key to our continued survival now and in the future. We know that we must participate in the 20th century economy, using 20th century technology. What we object to is the way that development has occurred in the past. And I speak the truth again. Our forests have been ravaged and clear-cut. Our fish stocks have been depleted. We are negotiating with the government on our right to share in depleted stocks. Our waters have been polluted. Harmac, as you know, polluted our inlet and to this day, we are not too certain what are the long-term effects of that. We are negotiating, however. That is why we insist that our agreement must not only allow for development of our area, but also ensure that this development will benefit our people and will occur in a way that leaves the land in tact and protects the environment for the generations to come. That is the reason why we are negotiating. We are negotiating for the future. No doubt, I will have gone to the happy hunting ground before we see the resolution of this claim. Our agreement must include with it money to compensate our people for the damage that has already been done. This compensation can be used for the long hard work required to reverse the damage that your governments have allowed, and at times, even encouraged. Especially Amax, they bypassed the existing fishery regulations, with the consent of the Federal Government. The rehabilitation of our land will benefit not only our people, but will benefit all British Columbians, all Canadians, and generations yet to come.

There is no question but that more than 100 years of colonial rule and governmental attitudes has left many of our people in a state of poverty. An immediate goal of claims settlement, therefore, must be to alleviate this present economic hardship, not through welfare handouts, but by providing compensation for past wrongs. This will not only provide the means for our enjoyment of our resources, but will provide us with an economic base in order to continue to be self-sustaining. Furthermore, if we are to join Confederation we must be guaranteed adequate levels of funding to provide the same level of social services in such matters as education, health and so on. The same services that other Canadians receive as a right. We too, are tired of fighting for those rights. Therefore, the claims settlement must clearly identify and define the rights that we as people, will have in the future. With our rights defined, our people will no longer be arrested and charged with offences relating to hunting and fishing on our lands. As you know, the laws of the land prevents us from exercising our culture and our rights on our own land.

This brings me to the subject of self-government, which I have been hearing a lot about during the past few days. It has been discussed a great deal in the past year. As I explained earlier, the Nishga Nation is a self-governing nation, and has been for many centuries. This is an historical fact, not a matter of negotiation. But whenever the Canadian government speaks of self-government, it speaks in terms of granting it as a limited, delegated or municipal style government, where the citizens are subject to ministerial override. Again, this approach treats us as children, rather than as a nation with functioning and workable institutions that are much older than your own. Often people ask the question: "Are we capable of governing ourselves?" I suppose that when my people watch the actions of your governments and witness your elections we would ask the same question of you. Surely we must assume that we are all equal human beings capable of governing our own affairs. The task is to work out the difference between our governments, not to identify whether or not such a right exists. I want the government to listen to this very closely. The task is to work out the differences between our government and not to waste time asking questions. Not to identify whether or not such a right exists. In this way we will both save a lot of time. That is why we say that our land claims agreement must recognize our aboriginal right to self-government and not purport to create it. We do recognize, that in the same way as we must share our property with you, we must also share jurisdiction. We also recognize the relationships between governments, as your 117 years of bickering between provincial and federal governments prove. This bickering is still going on today. The federal and provincial governments are arguing. Quebec is threatening to pullout I am wondering whether I can trust my sovereignty with your government, because you are not a stable government. Therefore, we feel that the claims process must squarely address this area in all possible detail, so that areas of exclusive and shared jurisdiction are clearly identified and set forth in the hope of avoiding undue controversy in the future.

Canada is a huge land and there are many different first nations and other aboriginal groups. Each has their own culture, fisheries, institutions, and traditions. It is only sensible, therefore, that the details of these relationships will vary. The government should recognize this. We can-

not say what would be appropriate for the Inuit or the Cree, any more than they could say what is appropriate for us. We are diverse. It is because we are diverse that the rights of all aboriginal nations to a third order of government must be clearly recognized and stated in the Constitution of Canada; that details of governmental relationships must be settled as part of the land question. I use the words "land question" because these were the words used by our forefathers. Perhaps it is now possible to see why the Nishga, like nearly every other aboriginal group in Canada, has firmly rejected the government's policy of extinguishment.

I will now go into the issue of extinguishment. The government says that before any final agreement is entered into, we must sign a paper that extinguishes all of our aboriginal title, rights and interests for all time. The government says that any rights we will have after agreement will be those granted to us in the agreement, and that we will have no rights, whatsoever, based upon our aboriginal title. When asked about this policy last spring, in Yellowknife, the Federal Minister of Justice, Mark McGuigan, who I understand now is a judge, defended it by saying that the government, will give a substantial quantity of land and money to a group of Indian beneficiaries, and extinguishment is all the government receives in return. Imagine that, he is now a judge! This statement displays a fundamental misunderstanding of history and of the claims process. The government is not giving us land. How can it give it to us when it is already our own? Money is given us, I have said, in order to compensate us for the resources which have already been taken without our consent. The government, furthermore, receives far more than extinguishment. It receives our consent to share our land and resources in the future. It has already received the land and resources it has stolen in the past. The government receives a loyal ally and partner in Confederation, rather than a subjugated and dependent people. It is very important that we understand these things. Based on everything that I have said, it must be clear to you now what is wrong with extinguishment. Extinguishment is a means whereby the government seeks to sever our link with our past and with our identity, our only protection against assimilation. If this link is severed, if our aboriginality is lost, we would then lose our identity as Nishga people. Thus, our elders have advised government that we can never consent to extinguishment.

Furthermore, extinguishment is a demand that the government makes of no other Canadian. Recent immigrants to Canada may, under Canadian law, become full fledged Canadian citizens, without ever renouncing their citizenship and rights in their own home country. Yet we are asked to renounce and sever our links with our aboriginality, with our nation, and the facts. The government's policy of extinguishment is furthermore totally inconsistent. I know this has been addressed, because I have attended all the meetings in the past few days. However, I will be a little more specific. Extinguishment is totally inconsistent with the ongoing constitutional process. In 1982 all governments in Canada agreed to recognize and affirm our existing aboriginal rights. The process of identifying and defining these rights is to be set in place between now and 1987, and yet at the same time as this process of identification and definition of aboriginal rights is going on, we are asked to extinguish our aboriginal rights altogether. This does not make any sense. Furthermore, extinguishment of our aboriginal title would make it easier

for governments in the future to do as they have done in the past, namely, to breach the terms of our agreement. Once our aboriginal title is gone, we have no method of ensuring that the government lives up to its promises. Furthermore, extinguishment is completely unnecessary and I will go into detail on what I mean by "unnecessary."

We strongly feel that the government can attain all of its legitimate objectives in the land claims process without insisting upon an extinguishment of our aboriginal title. We understand that the government has the objective of obtaining our permission to enter into and develop our lands on the basis of the terms and conditions outlined in the agreement. The agreement will give the government all the certainty it needs in order to do this. We understand that this certainty is necessary for the government and private corporations to receive funding and assurances needed for development projects. We wish to have this certainty too. For too many years we have had to argue about the content of our rights. This is a common not a different goal. It must also be kept in mind that the land claims agreement will last for many, many years as the basis for the relationship between our nations. Therefore, it must have sufficient flexibility to allow our relationship to evolve, in order to meet changing circumstances, as they develop in the future.

The lack of sensitivity and understanding of this issue was clearly displayed by the then Prime Minister, Pierre Elliot Trudeau, at last spring's First Ministers Conference. In addressing the question of extinguishment, the Prime Minister said, in one breath, that the purpose of the land claims process was to give expression to the aboriginal rights that had existed for centuries before the coming of the white man. In the very next breath he indicated that the rights contained in land claims agreements would rise phoenix-like from the ashes of the old. It is the second version that we object to. We will not permit our aboriginal title to be reduced to ashes. We are more willing to enter into an agreement, which will give expression to the rights that we have, and will continue to enjoy in the future. We are not satisfied, therefore, by assurances of the government that they will consider using a different word than "extinguishment," but rather, we must insist upon a different concept. The concept that we suggest as an alternative to extinguishment is an alternative to surrender and that is an alternative to assimilation. It is a concept of sharing and coexisting. That is why we are troubled by suggestions that we must somehow compromise. It is our view that all the land not surrendered is still Indian land. I am only echoing what I have heard for the past two days. But our entire purpose of entering into land claims negotiation is to reach a compromise for the future. A compromise that permits all of us, Natives and non-Natives, to go forward into the future. A future which is based upon equality of people. A future which is based upon respect for our nation, and based upon the idea of sharing between human beings on this planet. These are our objectives.

The Alaska Claims Settlement

by

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I would like to start off by giving you a little bit of background information, and then go into historical perspective and an overview of Alaska Settlement and the negotiations which led to the signing of the law. Then I will follow this by talking a little bit about objectives of the land claims and the expectations of the people, as a result of the settlement.

Background

The Alaska Federation of Nations (AFN) was formed in 1966, to be the Native voice in the push for a land claims settlement in Alaska. Since the passage of the Claims Settlement Act in 1971, AFN has evolved into a political advocacy group which takes on state-wide issues of concern to Alaska Natives. The membership in our organization is made up of thirteen regional corporations that were established by the Alaska Native Claims Settlement Act. In addition to the twelve non-profit Native associations, we have a board of directors or approximately 24 organizations. Our major effort for the last couple of years has been trying to resolve some of the serious problems of the Settlement Act through amendments. We have already had two separate pieces of federal legislation passed amending the Settlement Act. We are working on a third right now. The Alaska Claims Settlement Act provided Alaska Natives with 44,000,000 acres of land and \$962,000,000 as payment for lands given up. The land and the money assets of the settlement were considered a great victory for Alaska's 80,000 Eskimos, Indians, and Inuits. The uniqueness of the settlement lies in the structure of the settlement which is rooted through the establishment of corporations. Regional and village corporations were established and they were chartered under state laws. They were organized to own and manage the assets with the individual Natives enrolled as shareholders in these corporations. The intention was to give the Native corporations some time to get on their feet, free from the threat of immediate takeover as soon as the law was signed. There is a provision within the law, which prevents Native shareholders from selling their stock or pledging it as collateral for a period of twenty years. That period ends in 1991. Thus, the year 1991 has become synonymous with three major problems of the Settlement Act. These are the problems that we in AFN have been working on for about the last two years.

Settlement Problems

One problem, which is a very real possibility, is that Natives may lose control of these newly formed corporations after 1991, when individual Natives are able to sell their stock. The second, is the loss of Native lands because, as structured in the Settlement Act, the lands are tied directly to corporations. The third problem is the settlement's exclusion of Natives born after the Act is signed into law. Under this provision, young people born after 1971, when the Act was signed, will not be members of the corporations, and as a result, will not benefit from the settlement. This is a very simplified explanation of the

concern over the date 1991, and some of the issues that we in the AFN are dealing with. This background is relevant to today's discussion.

The Motivations For Settlement

As we in Alaska have learned all too well over the years, winning a settlement is really just a beginning. The land and the money that is received through the settlement itself is really only a tool. It should be viewed as a tool. The success or failure of the settlement, in the long-run, depends on how it is used. The ultimate objective is to determine how you can use this tool to achieve certain goals. This is a far different perspective from that of the late 1960s and the early 1970s, when the settlement was finally signed into law. The goals of Alaska Natives, back then, were quite similar to the goals of Natives today. First and foremost, we wanted to protect our traditional lands to carry on a subsistence way of life, which has been the essence of Native life in Alaska for centuries. We wanted to stop the encroachment by non-Natives in general, but especially by the State of Alaska, as it began selecting the 102,000,000 acres under its entitlement. We wanted cash compensation for the lands previously lost or given up, and we wanted the right and opportunity to improve the standard of living for our people. The fact that the Settlement Act came out the way it did, is a function of several different elements which served the objectives of the other major parties that were involved in the settlement. Those other parties were the State of Alaska, the oil companies, and the Federal Government. The Federal Government had its own objectives. Important in this regard, is the fact that through Congress, the legislative branch served as the arbitrator.

The major motive behind the oil industry and the State of Alaska, in seeking a claims settlement, was the Prudhoe Bay pipeline and the Alaska lands entitlement. The fact is that neither the Prudhoe Bay pipeline or the land selection process could proceed until Native land claims were settled. Construction of the oil pipeline and state selections were frozen in 1966, by the then Secretary of the Interior, Stewart Udall. It appears also that the economic interests were also a motive in Congress as well, because as early as 1962, congressmen began talking about settling Native land claims in Alaska, because of its potential for impeding development of Alaskan resources.

The historical factor really breaks out into two facets, both affecting Congress' attitude towards aboriginal people. First, since the treaty succession with Russia, the United States Congress has repeatedly recognized Native land rights by virtue of aboriginal use and occupancy. Yet decisions about how those land rights would be settled were repeatedly left for future congresses and future legislative actions. Nobody really wanted to deal with them so they passed the buck for the next major settlement.

The second historical factor which really has a lot of bearing today, is the treatment of aboriginal people by the United States Government. If you look at the history of how the United States Government has dealt with aboriginal people, you will see two basic trends. One is self-determination and self-government, and the other one, the second one, is usually called termination. While termination gives recognition of Native rights to land, it also pushes for Indians and Alaska Natives to be treated just like any other citizen, without any special considerations or special legal status. If you look at the history, you will see that the United States Government has gone from one school

of thought to another, and back and forth again, in its treatment of aboriginal people. I do not pretend to be an expert on Indian policies, or Indian law, but I believe that if you plotted the course and took a look at the actions of the United States Government, you would find that the Government has veered really more often towards encouraging the assimilation of Indians into the American mainstream. This really should not be surprising, because the United States has always been in image, if not in reality, the great melting pot of the world. The unstated rule of American society seems to be that you can retain your particular identity, be it cultural, racial or national, but only in so far as that identity does not come into direct conflict with the larger political and social order in society. However, Indian people in the United States historically have been an exception to these general social and political pressures. The Federal Government has consistently recognized the unique status of American Indians and Alaska Natives. The special status stems from the fact that basically we were there first, but even with this special status, pressures to assimilate have, at times throughout history, been strong enough to infringe on this special status.

By the mid and late 1960s, about the time when Congress and Alaska Natives were starting to really get serious about the settlement, Indian policies had begun to swing from assimilation back to tribalism. The social and political atmosphere of the time was dominated by the war on poverty, by President Johnson's great society and an increased sensitivity to the plight of racial and ethnic minority groups. That sensitivity brought recognition of the value of cultural diversity in the United States. And hand-in-hand with that sensitivity was the belief, or the assumption, that equal opportunity and economic development were the keys to improving the welfare of these racial and ethnic minorities. So what we had in the mid 1960s was a mix, it was a mix of economic, historical, social, and political factors which made an Alaskan Native land claims settlement possible in the first place, and which had a big influence on how that settlement was implemented.

It was this economic, historical social, and political mix, that shaped the objectives for each of the parties involved — the objections that were not in total conflict with each other. Alaska Natives wanted their land. Congress wanted to settle the issue in a fair manner and to pave the way for economic development. The oil industry wanted to get on with the pipeline. The State of Alaska wanted to get on with its land selection and the development of the resources on the land.

Conditions Necessary for Claims Settlement

Native groups today cannot manipulate the forces that were present back in the 1960s, when the Alaska Native land claims were being negotiated, but we can look at the situation in ways that are applicable to any Native groups seeking a land settlement. In theory, at least, the Alaska experience would seem to point to four things that could be applied anywhere to the benefit of those involved in claims settlements. First, you need a legal basis — the law must be on your side. Second, you need a group consciousness to motivate your people as a group. In Alaska, the overwhelming fear in the 1960s was that Native land claims would be overridden by State land selections. The State had already gone out and started selecting traditional Native lands as part of their selections. Third, you need a dedicated group of Native leaders who have the talents

and the time to negotiate with a government and any other non-Native interest, on behalf of their people. Fourth, you need leverage, you need a weapon. In Alaska, the Natives had a formidable one: a threat to both the oil pipeline and a continued freeze on State land selections. In Alaska's case, the objectives of the different interests, the Federal Government, the State of Alaska and the oil companies, were not fundamentally conflicting. There were conflicts, but the stakes were such that compromise was possible and all interests, at least, got something they wanted. The nature of negotiations and compromise, which I am sure you are very well aware of, is that all parties must have something at stake and those objectives must have some compatible elements. If the different objectives are totally at odds the chances of reaching an agreement are reduced considerably.

Expectations

I have been talking about the objectives of the Alaska Native claims settlement, but I think the expectations are a different issue, although people often talk of objectives and expectations as being somewhat synonymous. And as I said earlier, the objectives of Alaska Natives were very straightforward. We wanted our land claims settled, and we wanted compensation for lands taken or surrendered. But the expectations went much further. In retrospect, I think that our expectations reflected the atmosphere that was prevalent with the level of optimism present in the United States in the 1960s. If you look back at some of the testimony which was given by Alaska Natives during that period, you can see the great aspirations toward developing village economies, creating jobs, educating our young people and curing all the social ills. As viewed at that time, all this would occur while retaining and protecting Native lands and traditional ways of life. Yet, despite all these expectations, the settlement was and is a settlement of Native land claims and nothing more. It was not a conscious concerted effort to assimilate Alaska Natives, or to terminate the trust relationship that we have with the Federal Government. We are hearing some hints now, however, that Congress did hope that through the structure, through the corporate structure, that Alaska Natives would no longer need federal services and programs, because the corporations would eventually eliminate the need for them through indirect benefits, stemming from the healthy village economies that were going to develop in all of the villages. But the expectations of our Native people are really more important than any of the expectations Congress might have had. I think that many of the frustrations that we are hearing now, in Alaska, stem from the inability of the settlement and the corporations to meet these expectations.

The Settlement in Hindsight

Among Alaska Natives today, there is extensive and often times very heated discussion and debate about the corporations. The corporations are not traditional Native entities, they are something totally different from what Alaska Natives have ever had before. During the land claim struggle, very little attention was focused on how the settlement was going to be implemented and structured. Most of the emphasis, the energy, and the negotiations, were directed at how much land the Natives would receive and how much money they would get and the formulas by which the assets would be distributed. It was clear that Congress was adamantly opposed to a reservation system, because Congress had been hearing in the late

1960s (when the Land Claims Act was being drafted and negotiated) that the Lower 48 Indians felt that the reservations system had been a failure. So Congress wanted to try something new. And while Congress did not seem to be consciously promoting assimilation, it was not pro-tribal either. And there is a section on language in the Settlement Act that specifically states that the Settlement Act was not to result in any permanently racially defined institutions. Again, I think the prevailing attitudes of the time, of economic development, and giving minorities the opportunity to "raise themselves up by the boot straps" made the corporate structure the very obvious choice.

People tend to be quite skillful in hindsight, and we have had thirteen years to take a look at the settlement and the accomplishments and some of the problems of the settlement. We see now, that in 1971 that the typical corporate structure conflicts with traditional Native values. We see now that in 1971 we should have insisted on a perpetual role to ensure that our children and future generations would benefit from the settlement. We see now that there are numerous ways in which we can lose our lands even before 1991. And we see now that we were perhaps very naive in our expectations of what the settlement and the corporations could accomplish. Some of the problems were obvious soon after the Act was passed, and as I mentioned, we have succeeded over the years in getting amendments passed through the Federal Government to correct some of the inadequacies of the Act. We were not able to see all of the problems nor were we able to predict what would happen, how it would work ten, thirteen, even twenty years down the road. But really, how realistic is it to anticipate changing perspectives and changing aspirations?

Lessons Learned

Nonetheless, I think that there are lessons that can be learned from our experience in Alaska, and one is that, yes, it is important to try to anticipate the ramifications of a settlement, and to do so very realistically. That requires a very hard, critical look at how your long-term objectives mesh with the settlement structure. And I would like to just give a couple of examples from our experience, a couple that I have alluded to when I have talked about some 1991 issues. The protection of Native lands, as well as the title to those lands, were the essence of what Alaska Natives wanted from the Settlement Act. But did the structure ensure that protection in perpetuity? No, not at all. In retrospect, it should have been clear that by tying the lands to the corporations, the lands would be vulnerable if the corporations went public, which they are to do in 1991. My guess is that some of the Native leadership at the time saw that, but as the old quote goes "the train was leaving the station" and the Native leadership back in Washington at the time, who were negotiating the settlement, felt that there was a risk if we held out for more changes. They felt that we would perhaps lose some of the ground that we had already gained in the years of negotiating the settlement.

Another example was that the settlement called for Alaska Natives, as defined by Congress, to be one-quarter or more Naïve blood, were alive on December 18th, 1971, and enrolled in a village or a regional corporation as shareholders. If you happen to be born on December 19th, 1971, you would then be able to own stock only through inheritance. I gather then that the assumption was that Natives born later would inherit the stock from share-

holders, thus perpetuating the "Nativeness" of the corporations. Apparently Congress really did not give a lot of thought to the "cut-off" day. The government did not, at the time, want to create a perpetual role for Alaska Natives and the date of the signing of the Act was a very convenient one. But thirteen years later, we see that the cut-off has created an artificial division between those Natives who are original shareholders and recipients of stock and money, and those who are not included simply because they were born too late. Furthermore, Native stock is falling into non-Native hands, through inheritance and also sometimes through divorce settlements. And there is no provision in the settlement for Native children, born after 1971. Natives born after 1971 do not receive Native stock in the corporations. Could we have won a perpetual role? The answer is I really do not know.

Another lesson that can be learned from the Alaska settlement, is that the land and the settlement is not the ultimate objective. If the ultimate objective is protecting traditional lands and traditional Native ways of life, such as subsistence ways of life, then only land can help you do that. But the fact of ownership of the land is not enough to ensure protection. Title to the land is only a tool. The corporations that were established under our settlement are only tools. In this same way, the settlement itself is really only a tool. For any of these to work they must be used correctly, and yet they cannot be used correctly unless you know very, very clearly about what it is that you want them to do. The point here is that you must know what you want, and understand very clearly what you are receiving.

That, in a nutshell, gives you a little bit of perspective about Alaska and about the settlement and all that the AFN is working on. As I mentioned, we are working on the 1991 issue. We have been on this issue for the last couple of years. We have been holding state wide retreats for the Native leadership in order to try to work out the language. It is going to take another very major effort, back in Washington, D.C., to obtain the necessary amendments. But this has been very interesting for me to sit and listen to you and hear some of the same problems that we are currently working on. It is also very good to be able to come and talk to you, to share in some of the lessons we have learned over the last thirteen years.

The Objective of Claims Settlement A Government Prospective

by

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In my discussion today, I would like to outline what I perceive to be the objectives of Native claims settlement from the prospective of a Federal negotiator. The objectives of Native claims settlement vary in accordance with the perceptions and the perspective of the various parties to negotiations and settlement. While these differences will always exist, as Ms. Leaske mentioned, a certain de-

gree of commonality is necessary to ensure the completion of successful agreement. In response to claims presented by Indian and Inuit people of Canada, the Federal Government has developed and elaborated the Native claims policy, which is intended to firstly respond to the call for recognition of Native land rights by negotiating fair and equitable settlement and, secondly, to ensure that the settlement of claims be provided in such a form and manner so as to facilitate the economic, social, and cultural development of the Native communities concerned. The objective is to promote meaningful participation for Natives in contemporary society.

If you will allow me, I will touch first on the first objective which is the recognition of Native rights and the question of extinguishment. Native land rights find their deep roots in Canadian history. Settlement by Europeans brought with it not only territorial loss, but in many cases the loss of a way of life, which depended upon the free and unfettered use of the land. The underlying grievances arising from this historical fact, has resulted in the Native claims negotiating process in which we are engaged. One of the most fundamental aspects of the 1973 policy statement is that it asserts the government's willingness to settle comprehensive claims. These claims are based on traditional use and occupancy when it has been determined that aboriginal title has not been extinguished by treaty. When the policy statement was issued in 1973, the Federal Government clearly indicated that one of its objectives was to remove the cloud over the Crown title in disputed areas. As you heard this morning, Native leaders have been particularly critical of this policy of extinguishing the Native title on Indian and Inuit land claims. They are advocating that rather than extinguishing Native title as a condition of settlement, the government should confirm Natives' interest in the land as a means of ensuring cultural survival. The government is concerned that comprehensive claims settlement should be filed, that claims based on Native title, once settled, can never be legally raised. Furthermore, that claims settlement do not detrimentally affect the exercise of the Crown interest within the claims area. The problem, therefore, is to ensure such finality, while at the same time avoiding any connotation of affecting the right of a claimant group to maintain their culture and identity and their close association with the land.

The Federal Government talks about the finality of settlement, but finality of a claims settlement does not mean that the settlements cannot be modified or cannot evolve over time. Claims settlements are not negotiated in the abstract, and should be adapted to the social and economic conditions. Claims settlement should provide for amending the law, so as to enable the type of implementation that will allow for adaptation to the evolving society. In this regard, I would point to James Bay, which was signed in 1975. The Tate Report, which resulted in some action taken by the government to facilitate the implementation of the Agreement, is a good illustration of that attitude. And I think that presently the Cree Indians are engaged in the process with the Province of Quebec, to review each chapter of the Agreement, and I think that kind of approach — that kind of flexibility, is one important way to ensure the long-term success of an agreement.

The second main objective of claims settlement is to protect and promote the Indian and Inuit self-reliance, and a meaningful participation of Natives in the society. Native people are determined that they shall not only have

a voice in what is happening on the economic development front, but that they shall have the opportunity to participate in whatever development is taking place. Moreover, they are fully aware that claims settlements provide a means through which such influence and participation can be effective. This especially is true in terms of meaningful and influential involvement in land management and planning. Indeed, claimant groups in the north are making plans for becoming major players in resource development. These groups are already taking advantage of settlement compensation to begin investing in mining, tourism and other sectors. The Native people are not, however, about to trade economic development at the price of destroying their own lands, cultures, and lifestyles. That is why they are concerned about environmental protection and the wisdom of sound land management and planning. That is also why they wish to see wildlife properly and adequately managed and why they want to be closely involved in the management of these resources. In short, that is why they insist that claims settlement shall provide for both economic development opportunities and the preservation of traditional pursuits according to their own choices. The Federal Government agrees with this approach. But unlike the situation in the north, British Columbia claims will require the full participation of the Province if we are to obtain these objectives. The report of the Special Committee on Indian Self-Government, the Penner Report, recognized the value of claims settlement as an instrument for fostering economic development. In its recommendation the Committee stated, and I quote:

A new relationship between Indian first nations and the Federal Government should ultimately result in the provision of an adequate land and resource base and the settlement of claim. Prospects for economic development would improve if the land base were expanded, claims were settled and the control of resources of Indian lands were transferred to Indian first nations. These actions would help to build a foundation for economic development, but it will naturally take considerable time to accomplish.

As implied by the above, claims settlement can be a powerful tool for economic development.

In addition to being a powerful tool for economic development, claims settlement also can become an instrument for self-determination. It can enable Natives to create the new institutions which they can control. As we could see, claims settlement could be a powerful tool for economic development, but it could also become the instrument chosen by some Native groups to attain a greater degree of self-determination through the creation of new institutions which they will control. Comprehensive claims settlement provide for a wide spectrum of components, ranging from the provision of lands and economic benefits to guaranteed harvesting rights. It may provide for self-government on a local basis and corporate institutions which could become excellent instruments for achieving the stated objective. The objective is to enable the Native people to be equal and meaningful participants in Canadian society. Comprehensive claims settlement could provide a way for Indian people to strengthen their cultural identity through special rights and benefits. The recognition of cultural heritage of the Indian people and the pursuit of the activities necessary to strengthen their

cultural identity, are essential components of the settlements under negotiation at this time.

To conclude, I would like to say that the comprehensive claims settlement affords governments an opportunity to respond positively to Native initiatives, and to develop, in conjunction with Native people, solutions for long lasting problems. As I mentioned earlier, the objectives of claims settlement cannot be identical among the participants, but the basic goals of each party have to be reconcilable for the achievement of lasting agreements. Claims settlements are not the only means for achieving Native self-reliance, but if the objectives of the government and those of Native people can be reconciled they could become a very promising avenue. It is clear that the Federal Government has made a deep political commitment to the resolution of comprehensive claims. This commitment was reaffirmed with the 1983 Constitutional Accord in which it was agreed that treaty rights are recognized under Section 35 of the Constitution. Moreover, Section 25 as you know, as proclaimed in 1982, has already gone far in recognizing land claims settlement by anticipating their attainment. The outlook for comprehensive claims is promising. It is, however, important that claimant groups and governments seize the opportunity now, that all parties to the negotiations do all they can to achieve settlement. This does not mean giving away all points on all fronts at all times. It does, however, mean that compromise must be present on both Native and government sides at the federal, provincial or territorial levels as required.

SECTION III

Comment, Discussion, and Questions From the Floor

Question — (*Rod Robinson to Janie Leaske*).

I just want to make one comment and ask a question afterwards. Anyway, I think one of the highlights of this conference is the participation of Tom Berger, Peter Taylor, and yourself. You have brought the history of what happened in Alaska. You also have brought your concerns about the possibility of a collapse and/or bankruptcy, which would no doubt, mean the end. We will never get a second chance at land claims. Your experience in Alaska is a long-term slap at extinguishment. We could become drifters in our own country. Pardon the harsh words, but that is actually, in my view, of what is happening. You have put the rest of us on alert. I must say that there has been a hint by our own government, that they may create new corporations. In times such as they are today, even the best of corporations — non-Indian corporations — are going under, collapsing all over the place. It is important that we be very cautious about our reaction to what is presented to us. You have the experience, and therefore, you have really contributed to our cause. In relation to that, when listening to my friend here from the east, I do not know if it struck any of the other Native people here, but it seems to me that this whole conference is a feeler on how best to settle the questions: land, self-reliance, renewal and development. Is this coming about after extinguishment or is this in place of extinguishment? We talk about coexistence and sharing. Are we only talking about self-reliance, renewal, and development? Is this what we are trying to achieve? Are we being sent a feeler — I can almost feel it

— to see if the Alaska situation is acceptable? We are all concerned, because of what has happened to you people. Suddenly you are so vulnerable. I hope you can find a way out. This could happen to us, if we are not careful. My little question is whether there is a possibility of bankruptcy before 1991?

Answer — (*Janie Leaske*)

There are some corporations who have been right on the verge of bankruptcy and what they have left is their land. All the rest of their assets, in which they have invested, have gone belly-up, and what they do have is the land. There is that possibility, and it is a very real possibility. The problems with the Settlement Act is tying the land to the corporations. We are very optimistic, though, because what we have learned over the last thirteen years about the problems of the settlement and what we are proposing now, is to go back and have some major amendments introduced and get them passed through federal legislation. This is going to take a very strong political effort and it is going to take a lot of unity among Alaska Natives. I think 1991 is showing up the settlement, showing that the structure is something that is the concern of everybody, even though people up there are very divided about corporations. You can go out into the villages, and see that the problem with the corporation is that you have to make a profit in order to survive. You are a state chartered business corporation, a profit corporation, but yet you also need to take care of all the political and social concerns of your people and you do that through programs. In order to operate programs, you have to turn a profit to survive. At a regional corporate level, I would say that there are probably about three or four out of the thirteen who have serious financial problems. Village corporations, we do not know the number, but it is a lot more, a lot more, just because they do not have the expertise at a village level, that is available at a regional level, and you do not have the dollars. So, it is a very real possibility that some of the village corporations, will have to split their assets among the shareholders. Some of the village corporations, too, are finding that they have to sell off their land, or portions of their land, in order to meet operating expenses, to keep the corporation going. You know, that is not what Alaska Natives really intended, or even looked at when the settlement was being negotiated.

Question — (*Bob Goudie*)

I wonder if I could ask you to elaborate on some of these amendments that you are working on. One in particular, as I understand it — you have alluded to the fact that some of the corporations are having to sell off some of the land in order to pay for the operating expenses. If I am not mistaken, one of the problems with the Alaska settlement is that after 1991, the lands would be subject to full taxation as well, regardless of whether or not there are improvements on them, is that correct? If so, what would you intend to be doing with that?

Answer (*Janie Leaske*)

There have been a couple of amendments since 1971, to the Settlement Act. At first it said that Native lands would be free from taxation for a period of twenty years from the time the agreement had been settled. There has been an amendment that has been made. Because some corpora-

tions have not yet received their lands, those lands not turned over to the Natives at the time of settlement, will not be subjected to taxation until twenty years from the date the Natives finally receive them. Another avenue provides for what is called an Alaska land bank. For a while all the Native lands were in the bank. While land is in the land bank, it is free from taxation. Land can remain in the bank so long as it is not developed. Once the land is developed, it is subject to taxation. So there is some protection for Native land already. One of the things we are looking for is to have all Native lands, all village and regional corporation land, automatically put into the land bank, and thus, have automatic protection. If Natives wanted to develop portions of the land, they could make application to take that portion out of the bank, but we want protection — continued protection.

Question — (Rod Robinson)

That is the purpose of why I am participating. One of these days we are going to be reaching some settlement and then, no doubt, we are going to go through the process. We will have to set up institutions, similar to what you have done. You do not have to answer this if you feel that it is confidential, but no doubt, you must know the reason why some of these corporations have gone bankrupt. Is it on account of poor management or high overhead, or what? As I say, you do not have to answer if it is confidential.

Answer (Janie Leaske)

Yes, it is really very simple. Back in 1971, when the Claims Settlement Act was signed into law, you had the people that were — and let me just deal with the background a bit — people who were back in Washington, D.C. The Native leadership at the time, were fishermen, school teachers, basketball coaches, and RCA technicians. Very few had a college education in 1971, when the Settlement Act was signed into law. Therefore, the structure of corporations was totally foreign to anything Natives had previously experienced. Thus, the Alaska Natives said "okay," we will set up a corporation, set up a board of directors, and start investing our money. We had to choose some good investments that will create dividends — and you know — provide for shareholders. There was a lot of inexperience back in 1971, in the early days of the Settlement Act, and we had everybody coming up from the Lower 48. They would come up saying "have I got the deal for you," and with the inexperience of the people who were managing the corporations, there were bad investments. And some of those bad investments are the cause of some of the financial problems that the corporations are having right now.

Question — (Speaker Unknown)

Thank you, so more expertise is needed?

Answer — (Janie Leaske)

Definitely. I think the Native leadership as a whole, have really changed philosophically over the years and so has the corporation. In the beginning, even though it was a full profit corporation, they put a lot of emphasis on being a Native corporation. More recently, they are somewhat more concerned about survival. "Yes, we are a full profit corporation, but we are different because we are a Native

corporation, and we have all these programs for our people." But when the corporate people go out to collect proxies for annual meetings and they say "look at all these wonderful programs we have got for you," the shareholders are replying: "Yes, but are you making a profit?" Because the shareholders realize that in order for that corporation to survive, you have got to make a profit. I think you will find the corporations shifting in attitude, even though they are Native separationists. They will remain separationists, that will not go away. But at the same time, they are becoming more business-like in order to survive.

Question — (Unheard — Speaker unknown)

Answer — (Marc Lafreniere)

I am not very familiar with the B.C. situation, but from my experience with claims to the government, I would say that within the state of jurisdiction in Canada: the different powers of the provinces and the Federal Government, the stated objective of the Native people in B.C. — they insist on land and the control of resources — the participation, (the full participation of the Province) is essential for the completion of a viable agreement in this province. Naturally, there are sectors which are under the federal jurisdiction of decision, but that is a very limited area. There are many more areas where provincial participation is required.

Question — (Unheard — Speaker unknown)

Answer — (Rod Robinson)

I know that the current Minister has expressed his interest in carrying on a dialogue with us in parts of the Province. Like so many Ministers, I guess, these days he is somewhat occupied on other matters. But that is an ongoing situation. It is certainly not my design or position, to even attempt to make excuses for the Province of British Columbia. We have separate dialogues ongoing with the Province of Newfoundland. Basically, the provinces are concerned with wanting to know about what the affect of land claims are on their jurisdictions, for what they certainly see as their land. The one thing that we all know, is that the land claims situation in the Province of British Columbia, is not like the situation anywhere else. In the Province of British Columbia there are already thirteen claims that the Federal Government has accepted under its policy and there are more claims likely to be accepted. There are four or five claims under active review. There are another nine or ten that are being examined. One of the things that the Federal Government has to do is to try and get the Provincial Government to feel somewhat comfortable in the process. How that is done I do not know, but I do know that to a very large degree, it is a political problem, that can only be resolved at the provincial level.

Question — (Question not heard — Speaker unknown)

Answer — (Janie Leaske)

There have been some successful corporations. These are, mainly, in the larger villages, the ones which are a little bit more urban than the other ones. They have invested in lumber investments, lumber mills, or they have developed a kind of cottage industry. I think by far the greatest success stories have come when the villages have merged.

There are a number of strong corporations — situations where corporations have merged five or seven villages, where they pooled all their assets. They pooled their assets realizing that individually they did not have the money and the assets to really manage and to plan for their resources. One of these corporations is a merger of about five village corporations. They own the office building in some of the urban centers, they own a barge line, a Native barge line which travels up and down the river. They also have got some other investments, smaller investments going. But by and large, there are some villages in the southeast where they have got some timber resources, by which they have done very well. The southeast villages tend to do a lot better than some of the remote villages up on the north slope area or around southwest Alaska, and northwest Alaska. These rural villages do not really have a lot of natural resources. I cannot really cite any specific groups that would be examples of village corporations, where there has been real success, although I do not want to leave you with the impression that all village corporations are going belly-up. There are some who have made very wise investments, some who have made very conservative investments over the years, and another which is providing technical assistance to the management of other village corporations and to non-Native organizations as well.

Question — (*Gordon Antoine*)

What were the aspirations of individual Alaskan Natives? For example, did they think that overnight they would have wealth laid on from high? What is expected in Nishga country? Are they expecting a block of land for themselves?

Answer — (*Rod Robinson*)

Right now, Gordie, the main objective of the Nishga Native is to reach some sort of an agreement with government, some time in the future. However, all that has been agreed with, has to be approved by the Nishga Nation. The majority rules. Once the settlement occurs, we will require specialists, on what we are to do with the cheque. We are not going to say okay, \$10,000 for you and for you, whatever you wish. We are going to have to be realistic, after all, it is going to take a long time to reach an agreement. When we do, we will sit down together and we will discuss the present needs of our people and their future needs. As I stated in my speech, times do change, values do change, opinions change, so we have to be flexible. Our first objective now is to reach a settlement, and then we will decide what to do with the cheque. Our objectives are to work out the levels of the standard of living for our people.

Question — (*Unheard — Speaker unknown*)

Answer — (*Janie Leaske*)

Well, as I mentioned, people originally thought that the Settlement Act would solve everything. I guess people were very naive at the time.

SECTION IV

Panel Discussion on Claims Settlement: Land Claims and the Future

CHAIRMAN/MODERATOR:

Fred J. Walchli
Senior Negotiator,
Office of Native Claims,
Vancouver, Canada

PANELISTS:

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Brad Morse
Vice Dean,
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Neil Sterritt
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Opening Comments

by

Fred J. Walchli
Senior Negotiator,
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This session of the conference in land claims is directed to looking at the future of land claims settlement in North America. The format for this morning will be in the nature of a panel discussion. After the panel presentations, I will pose questions to the panel. Each panel member should feel free to respond to these questions and comment on remarks made by other members of the panel. I also welcome comments on questions from the floor during the discussion. I will, in this way I hope, get a good free exchange of opinions, personal views, and information. After the introductions, I want to put this morning's session into perspective by trying to recapture, for a moment, some of the things that have occurred over the last couple of days, by describing the issues that we are facing in terms of the future.

Over the last two days we have had an opportunity to

examine and to discuss several aspects of Native Claims in Canada and the United States. We have reviewed the historical origin of the claims issue. Examined the negative and the positive aspects of claims settlement. We have dealt at some length on the very important, but thorny issue, of aboriginal title. We have had a look at the objective of land claims.

In our first day, the Honorable Tom Berger put the whole problem into perspective when he went back into the history of the issue. For those of you who were here, you will recall that he talked about the situation confronting the Spanish King 500 or more years ago. At that time, of course, Spain was the dominant power in Europe and was in the process of acquiring colonies, particularly, in South America. The issue that confronted the King of Spain was similar to the issue we are still facing today. Basically, it is how do you treat the Native people in the lands you have taken over? You will recall the King summoned the two scholars of the day and asked them to advise him as to what the policy of the Spanish Government should be to the Colonials. The one scholar stated that the Native people were inferior people who would benefit from being conquered by Spain, because they would become civilized. Their institutions were inferior to those of the Spanish Government, and therefore, the Natives would benefit in terms of culture, in terms of organization, in terms of government, that would result from the Spanish rule. This one scholar concluded that Spain should not put forward any different treatment to the Native people of the colony.

The other point of view put forward by another scholar, was that the Natives did have aboriginal rights. That they did enjoy their own system of government. He noted that they had a system of land title, and it was only just and proper to negotiate a settlement with the Natives and to pay compensation for the land and rights which were taken. I am not quite sure he put it quite that way, but that was the essence of the advice given to the King.

You will recall that the King was unable to reconcile these two different points of view. As a result, rather than develop a policy, he vacated office and spent the rest of his life in a monastery. Thus, the King faced with the same problem, we here are faced with today, could not come up with a policy. He could not settle on a way to treat Native people.

Subsequent to Tom, we heard from Peter Taylor, the General Council for the Senate Committee on Indian Affairs in the United States. Peter shared with us the problems the Indian people and the government are having in the United States. As Peter described, these problems have existed for over three hundred years. In other words, they have been trying to resolve the issue of claims for over three hundred years. He pointed out the treaties and agreements which were intended to be final are being reopened and renegotiated, largely as a result of judicial decisions, and as a result of a lot of political pressure being brought to bear by Native groups, as well as other sympathetic people.

In Canada, we face a similar problem, but we are not advanced in concluding treaties. There are still treaties or agreements to be negotiated in the two territories and three of the provinces. We also are facing a similar situation, where many of the treaties that have been settled in the past are being challenged, and the subject of specific claims or other forms of legal action. I guess the question that confronts both the Indian people and the govern-

ments of the respective countries, is whether it is possible to arrive at a final and just settlement in 1984? If it is, what should be the form and shape of these settlements? The question actually becomes more difficult to answer when one considers the many factors affecting settlements in contemporary times. Factors such as the limited amount of land that is available for settlement, the diminishing resource areas which are left on which to exercise traditional hunting and fishing rights, the high cost of settlement, and the growing resistance of many of the taxpayers to pay. The more extensive requirements for management and conservations of resources, along with questions of Indian government and the resolution of jurisdictional problems between federal, state, provincial and tribal governments, and of course, the thorny question of extinguishment, are issues in both Canada and the United States. What we have attempted to do in this session, is to provoke discussion on these issues. The intention here is to look into the future and see if claims settlements are possible, and if so, what shape should these settlements take. Having made that statement, I would like to kick off this session with Sam Steven's paper, which was prepared by Doug Saunders. After that I will pose questions to the various panel members.

The Direction of Land Claims over the Last Fifty Years and into the Future

by

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(presented by Sam Stevens)

The settlement of land claims is one of the major innovations in Indian policy in Canada, in the last forty years, or at least since the Second World War. Let me attempt initially to describe its place in the policy of evolution by summarizing it in terms of four different categories. The categories being: (1) normalization, (2) termination, (3) land claims and, (4) self-determination.

By normalization, I mean the initial policy thrust after the Second World War. The old discrimination against Indians in voting, provincial social services, education, and liquor had become unacceptable and was ended at that time. It was generally assumed that this normalization, would lead to what we call integration and assimilation. The termination of Indian status would be a logical conclusion. Termination would not just happen like that, it would be a gradual sort of evolution over a period of time and in small increments. One day we would wake up and realize that special status had withered away and disappeared. But we sought assimilation through normalization and not through termination.

The next category is termination. We had a brief fling with termination as you will recall. The White Paper of 1969, which proposed termination was, in fact, out of step with any of the main streams of Indian policy in Canada at the time. It was out of step with the policy direction which was then in place in the United States, and finally out of step with the increasing recognition of minority rights throughout the world.

The third category, land claims itself, was an Indian ini-

tiated policy thrust. Non-Indians had blamed Indians for the poverty in which they found themselves. Indians, it was said, were lazy drunks, and therefore, were responsible for their own poverty. This is now commonly referred to as the pattern of blaming the victim. The assertion of land claims turned this pattern around and reasserted the traditional Indian view, that non-Indians were at fault, not only morally, but legally as well. Land claims not only shifted the blame, but it also asserted the fundamental minority goal of distinct group survival. As part of this third category, it was recognized that the settlement of land claims would strengthen Indian communities in economic terms. The most influential model of the 1960s was the U.S. Indian Claims Commission. The Indian Claims Commission settled land claims by ordering capital payments. Canadian Indian leaders consciously deferred questions of legislative and political reform in the early 1970s, in favor of an agenda of righting the wrongs of the past through settlement of treaty and aboriginal claims. The Canadian system responded in an accommodative manner. The Supreme Court of Canada, in the *Calder* case of 1973, gave credibility to the legal issue involved. The Federal Government that year announced that it would negotiate the settlement of claims in major areas of the country. Now, eleven years later, there have been some settlements, but on some major claims there seems to have been no real progress.

The fourth category, the category of self-determination, gives recognition to the fact that land claims are regional in nature. It can be argued, in this regard, that there were two basic problems with the land claims policy thrust as previously envisioned. Land claims were initially argued and responded to in what is now seen as being narrow and legalistic terms. They also had a potential problem of inequality. For example, the British Columbia Indians might have a claim, while Alberta Indians had none. The government Indian policy, in the past, had been justified as national in conceptualization. Land claims were essentially regional, were local in character. Indians reformulated their policy thrust in terms of self-government, with economic claims being part of this larger self-determination package. The Penner report on Indian self-government, envisioned land claims as part of the issue of financing Indian First Nation governments. Though we have not completed the work that flows from the 1973 Federal Government's statement on land claims, the framework for policy has shifted to the more all inclusive umbrella of self-determination. As well, the political and legal framework has shifted dramatically to include the constitutional drama, of 1978 to 1982 period, and the unique series of First Ministers meetings.

With these undigested changes still with us, this panel has been asked to speak with clarity about the future of land claims. The first thing, which I think is clear, is that the old pattern of an Indian policy being justified as nationally uniform, now, is behind us. Land claims more than anything else, have convinced Canadian governments to accept local and regional solutions. James Bay, in northern Quebec, and other subsequent claim negotiations, have established this pattern. The old pattern was artificial and more suited to government needs than the Indian realities. The new pattern is far from being finalized and will inevitably seem more complex, but we have learned from the pretensions of uniformity, with what appears to be an apparent commitment of diversity.

The second thing which I think is clear, is that we are

supposed to be trying to end patterns of dependency and bureaucratic control in favor of some system of local or regional autonomy. The Special Committee on Indian self-government was impressed by the repeated stories of the stifling of reserve communities and local initiatives by the Department of Indian Affairs. Indian Affairs has virtually no friends at the present time, inside or outside government. As Dr. Sally Weaver has observed, federal politicians are embarrassed by the Department and consider it unrepresentative of the policy orientations of the Federal Government. The negative attitudes toward the Department are themselves counter productive, by lowering morale among Department employees. In the end, this frustrating impasse apparently led to Prime Minister Trudeau to support Indian self-government on the almost desperate basis that nothing else we have tried has worked. Self-government is the only solution anyone is currently proposing to deal with the problems posed by the Department of Indian Affairs. It is not just the romantics who will support this self-government. Chartered accountants, as the Penner report so eloquently proved, supported it.

I cannot leave this point without noting the international pattern of support for the local autonomy for minority populations. What we are doing parallels developments in Scandinavia, France and Spain to choose three clear examples. The most difficult questions relate to whether this will work, or not. Will the political thrust to local autonomy be supported, both economically and politically by the land claim settlements? Will the history of marginalization of Indian Reserves come to an end? Are these hopes unrealistic in hard economic times? I think that we safely can say that it is not a question of money. As a country, we are not really skilled at dealing with minority issues. The recent Manitoba French language issue was a shocking example of the intolerance and had nothing to do with money. It is not encouraging to see the Canadian Government introduce two major pieces of Indian legislation in the dying days of the last Parliament and to try to railroad one of them, the Membership Bill, through the House. It is not encouraging to hear the Minister of Indian Affairs state that there had been inadequate consultation with the Indians on the Bill. And it is not encouraging to have him state that there was a major conflict between the Membership Bill and the Self-Government Bill. It was not encouraging to have the opposition critic on Indian Affairs support the Membership Bill with the words that he would "hold his nose and swallow the medicine." We have to see events in context. There is significant political and moral support for Indian issues in Canada, but we do not respond to minority claims without a struggle and we can be grateful that we have some sense of direction in Indian policy these days. That is a big step forward, but the struggle continues.

Question — (*Fred Walchli*)

The first question I am going to ask is: In your long study of the issue, are the present concepts and forms of settlement appropriate for contemporary times?

Answer — (*Brad Morse*)

The answer to that question depends very much on what you mean by present concepts and forms of settlement. One obvious factor in Canada is that, what people have in mind in settlements, is rather different. During the session yesterday afternoon, when people were talking about

the objectives of settlement, it struck me that the presentations given by Chief Rod Robinson and Chief Joe Mathias was representative of presentations and positions of a lot of other Indian, Métis, and Inuit people across the country. What they would be saying, in terms of concepts and forms of settlement, as being appropriate for contemporary times, is that as long as the settlement is in accordance with Native objectives, then sure it fits in contemporary times. If what is meant is that the Federal Government's concept of extinguishment has to be included, then the answer is "no." If, as is with a lot of specific treaty claims, the emphasis is for financial compensation, almost exclusively, then from an Indian perspective that would not be acceptable. If the form of the settlement is what is being sought by Indian people — that is a reaffirmation of their unique constitutional, historical, cultural, legal position in Canada — if that is the form, then the answer would be "yes."

Answer — (*Speaker unknown*).

We are getting different proposals from the territorial governments, the Federal Government, the provincial governments, the Indian and Inuit people. We are getting different proposals from everyone. It strikes me, from what has taken place over the last few days, that we have a clear indication that imposed settlements inevitably are fraught with problems. They are eventually unsatisfactory from the standpoint of the original owners of the land. The aboriginal people do not give up, they come back and fight another day, and maybe it is a decade or a few decades later, but they come back. The imposed settlements, or settlements that are inadequate from their perspective do not fit contemporary times. Negotiated settlements that are acceptable to all sides, it seems to me they can fit. Some of the proposals that are put forward today do meet these objectives, and if those are the proposals that are alternately adopted and implemented in claims settlement, as they have been in some parts of Canada, in parts of Australia, and those that are happening right now, then I do not see why there is any difficulty with doing the same elsewhere in Canada.

Answer — (*Neil Sterritt*)

I think the short answer is "no." Are concepts and forms of settlement appropriate for contemporary times? I have to say "no," and I say that for a couple of reasons. One of them is that the present forms of settlement arise out of the policies that were established in the 1800s and early 1900s. The colonial approach to the aboriginal people in North America, was one of deception. This deception arose out of the signing of treaties. It also arose out of the precedent of some imposed settlements. I think it can be said that the Alaska settlement would be an example of an imposed settlement. An imposed settlement, because of the threat of the economic development that was happening in Alaska. Similarly, the threat of what was going to happen in James Bay, so that really the people negotiated under some burden. The other thing that I think is wrong with negotiated settlements today, is that the government negotiators do not have any political direction. They are really there using the precedents that have already been established in treaty and through the recent agreements. They are trying to protect what they believe is the thing to protect for Canada. They are doing the best job they can, but if you go by our experience in the constitutional dis-

cussions, there is a tremendous gap among the government representatives, the bureaucrats, and the politicians, who ultimately end up at the table, such as the Premier and Prime Minister of Canada. In the absence of political direction, people like Fred Walchli and the gentleman to my right, Mr. Lafreniere, they have to do the best job they can, and that is what we see in the Yukon. That is what we see in any of the claims that are proceeding. There is a tremendous gap between where the aboriginal people are and where the negotiators are. I think that governments do not have the political will, the understanding, or commitment to a learning process to find out what we really want. On our side, I think that many of us tribal groups really have not worked out a philosophy or the bottom line, or found ways to make things happen. There is slowly an awareness developing, because of the Indian Government Report, because of negotiations that are happening, and because of the constitutional process, but there has to be something different. Unless there is something different, I do not think there can be a land claims settlement. Times change and the governments are not that wise, and we are not that wise, so things will have to change in the future. My philosophy is that society is evolving for the better. It has got to improve and the aboriginal people's relationship within Canada, has to improve. What we see today may be different in twenty or thirty years and I do not see anything wrong with developing some sort of an agreement that reflects that future. I disagree with an awful lot of the present claims policies. I do not agree that the settlements are good. I feel very strongly that the political will has to be developed to address these issues properly and I think it is not only important for aboriginal people, it is important for all people in Canada, because Canada if anything, is a nation of minority groups, and how you treat one minority affects another minority. If Canada can wrestle with that, then I think that all of Canada will be better off in the long-run.

Comment — (*Marc Lafreniere*)

I think I would agree that the forms of settlement are appropriate to the extent that they meet the needs of the Native people and the needs of the government at this given point in time and in a specific area. Having witnessed the James Bay Agreement, I would tend to disagree a bit with Neil's statement to the effect that it was not a volunteered settlement. I think that the Cree and Inuits in James Bay felt the pressure of economic development in that area, and that certainly helped to bring along the Agreement. The burden was also on the Government, on the Province especially, in terms of securing financing for the project. I think that the burden existed on both sides and The Agreement is certainly not perfect and does not meet all the needs of the Native people, but it is the result of a compromise and I think as long as these settlements could evolve with time and be adapted to the situation, they could be a very fruitful tool for Native people to become more self-determined.

Comment — (*Rod Robinson*)

I am also very keenly interested in a question that you asked Mr. Walchli. Are land claim settlements possible under the circumstances that we are in, the political situation that we are in, with respect to the resources in our area and the pollution? There is no more land in the Nass Valley. The only land that is left, are the reserves that were

cut off for us. These reserves are very small, there is nothing on them, nothing but an outcropping of rock. That is all we have. Now whose fault is that? This is the fundamental question I think all of you should be asking yourself. Whose fault is it? Is it the Natives, the colonial government, the Federal Government? This is the question I think. Who is responsible for all these problems? This is the problem that Canada must deal with. It is not our problem. It was imposed on us. They came into British Columbia, and they just took the land, without even going through the proper process of negotiation to gain consent. They did not do that. So it must fall in the hands of the government. What are you going to do about it? Otherwise, I am afraid, I am afraid of the future. There may not be any future for land claims settlement. The younger people that are following behind me, Neil, and Sanders, and the rest who are up front now, they may not have the patience that we have. This is what we are afraid of. There could be problems. There could be problems in the not too distant future. I am not threatening you, but I am saying this. So let us sit down. Let us see what we can salvage. What can we do now to halt all exploration, all development, until land claims in British Columbia are settled? I think this is the more realistic approach to the resolution of this outstanding issue, because what will there be to negotiate about a year from now, when oil rigs start digging for oil in the Hecate Strait? What is there for the Haida to negotiate? What is there for us in the Nass Valley to negotiate about, because our trees are all gone. Our trees are greatly depleted. Mining will be going on and hydro lines will be going through. There will not be one square inch to negotiate over, in a year or two. So these are the issues that we have to squarely address. What we want the government to do is impose a moratorium. Then everybody is going to start scratching their heads and coming to the negotiating table, especially the Province. Because there is unfinished business. We have not surrendered our sovereignty to British Columbia. We still have our sovereignty. What if the courts said we do not have any rights? What if the courts say my rights were extinguished? I do not believe it. It is in here, it is in our song, in our tradition. What if the Supreme Court and the courts of British Columbia rule, and they rule against us? That is not going to stop me, and it is not going to stop my children, and the young people that are coming behind me. So let us explore now the alternative. Let us not be too objective. We have a situation where the government came into British Columbia, they settled, but they did not settle for the land and resources taken from the Indians. True, Governor Douglas had good intentions. He began making treaties. There were fourteen treaties on Vancouver Island and these were just land access treaties, but they were not settlements. I guess you would call them peace treaties. The rest of British Columbia does not have any treaties. So there is unfinished business, and it has to be done, and it has to be done in this generation. We have to convince the politicians, they do not have the money, but there is a way ladies and gentlemen. I made a proposal yesterday. There is a way out of this. First of all, remove some of the obstacles that are not acceptable to us. That is extinguishment. Remove that! Let us develop a new concept. That concept should be based on sharing and coexistence. Let us sign an agreement that any development that is going to take place, will be based on providing Indians with a negotiated share. This, then, will allow developers to come in. This will allow the oil companies to go on harvesting the oil in

Hecate Strait. It is as simple as that, as simple as that. Everything is simple. We will get a share, a negotiated share, and that will allow developers to come into our area. It is as simple as that. We want cash compensation for past extraction, without our consent. Just as simple as that. Very simple. If the politicians and the general public of Canada accept this, then we will have an agreement. Gentlemen, let us try and work towards that, to resolve this issue of land claims. I agree with Neil. Right now we are negotiating, but it is one sided. The government imposes the settlement. They even wrote a booklet on it, a policy of settlement. This is what we are going to do. Did they come and consult us? No. The government granted a booklet, *In All Fairness*. In all fairness to who? It crops up in this little booklet that they must protect the interest of the non-Natives. The non-Native interest is protected more than ours. Who protected my interest when they took over the land? Nobody. So now I can approach the negotiation table, and they are protecting the interests of the non-Native, not ours. So these things, these obstacles, must be moved and pushed aside and that will pave the way for meaningful negotiations. Mr. Chairman, I hope that as a result of these deliberations the past few days, and the next day or two, that we will see some sort of a light at the end of the tunnel. We have a desire at the Nishga Tribal Council to see the resolution. There are more claims that are going to be negotiated in British Columbia, and yet we at the Nishga Tribal Council have not even got an agreement in principle after eight years of hard negotiation. Why? The government has imposed the rules. We try to say that is what we want. We are told that is not acceptable. The regulations do not allow it. Fisheries regulations do not allow it. Is that meaningful negotiation? It only demonstrates what Neil said. The political will is not there. So I think, ladies and gentlemen, we have to sit down and see whether we can remove some of the obstacles. We have changed our attitude. We are now prepared to share, not take the whole land. Now, let us hear what the government has to offer. I think if we remove all these obstacles we can move forward in negotiations.

Question — (Speaker unknown)

We have heard about the obstacles, such as public opinion, government inaction, restrictive regulations, etcetera, etcetera. Now it appears from what was said this morning, by Mr. Sanders, that the issue, comprehensive and specific land claims, seems to be elevated to perhaps another level, in that we might be also looking at a broader concept of society. That is minority rights and issues. I suggest this because of what Mr. Stevens said. I also suggest that by trying to link this to what Mr. Sterritt said, there is a need for political will and political direction. By linking those two together, can I first of all make that assumption? Secondly, by doing that has it been suggested here that, on the one hand, Native rights should be looked at in the broader context of society, as part and parcel of minority rights? By doing that, can it also be said that the need for political will and political direction should be initiated through public awareness? In saying that, I would like your general comments and observations on, first of all, the assumptions linking those two concepts together. Is that acceptable to all you gentlemen? If it is, how would you see it unfolding?

Answer — (Sam Stevens)

Might I respond by saying that first of all, the paper that I

presented was, as you realize, the thoughts of Mr. Saunders. Unfortunately, I cannot put myself into his mind to determine whether what you are suggesting, that Neil's and Mr. Sander's views can be linked in that way, is correct. My understanding of Mr. Sander's Paper is that, self-government is one of the policies, the only policy that he can see that is being proposed, that has a chance of working, at this time. It is an all encompassing type of thing, which as has been indicated over the last couple of days, involves more than just land. It involves, as the Alaska representative was saying yesterday, the aspirations of a group of people, who had at one time, the freedom to make all their own decisions, and exercise freely their own rights. If you sort of bring it down to that narrow legal framework of just land claims, you are missing out on a lot of these other things, that the Alaska representative was saying was expected as part of their settlement. I am not sure whether I am answering your question, but that is what I perceive.

Comment — (Neil Sterritt)

I wish to clarify my view on this subject. It is my opinion that you cannot equate Native and minority rights. What I was saying is that it is in the interest of the minority groups in Canada to see how the Native rights are addressed, and if something as fundamental as that cannot be addressed, then the minority rights and multiculturalism is an empty concept in Canada. Going a little further with that, when I was on the Multiculturalism Council, it was really interesting because I spent a lot of time educating others about Native issues, Native rights and why they were different. They wanted to know why we did not do what they do. We come to your country and we do so well, what is wrong with you people? I had to indicate that the legislation, the laws, and the policies since the 1850s, in British Columbia, were designed to put people down. I could run through every one of them, but there is no point in it. The other point I am trying to make about the relationship between Natives and the Canadian general population, including minority groups, is that it seems to me that what is wrong is a structural problem. I feel that before Europeans were here, aboriginal people had the right to be responsible for all aspects of their life. I think that the right to be responsible is the way it has to be stated. We had the right to be responsible for our own education. We had the right to be responsible for the resources that were needed so that we could survive. We had the right to be responsible for our own Indian government, and we had the right to fail. If you could sit down and study who we were, in contrast to what we are today, the difference would be that we had the right, then, to be responsible. Hand in hand with the right to be responsible is the right to benefit from our resources, the right to benefit from the products of your educational system. The right to benefit your future generations. We do not have any of that today. If we are successful in Indian government say, in our territory, of 30,000 square miles, then we have the right to be responsible for the forests, for the fish, for the animals, for our education, and for our forms of government. In the context of Victoria and Ottawa, right now they attempt to do everything but do not succeed. I think that structurally there has to be a way for us to benefit from the resources in our territory. That will run our government. There is a direct benefit that should come from the products in our territory. If that principle can be established through the

claims process, and through negotiations, then both the aboriginal and the non-aboriginal people will benefit. Non-aboriginals have the same needs for their own children; they have the needs for their own community. They also should be a part of that local government, whatever the level or form that government takes. That is why I say that all of society should benefit, if these structural changes take place. That is where I see the claims process going. If there is not a political will to do that, Canadian society is in trouble today. If we could sit down and analyze it, all of the elements are there. I think that can turn society around. I do not just say this because we have certain special values, or just because we are who we are, it is more than that. I think that if Victoria could wrestle with this concept, if Ottawa could wrestle with this concept, if the Canadian public could wrestle with this, and it was recognized that we are on a common journey, we will get somewhere. You cannot equate Native rights and minority rights directly, but it is the indicator for minority rights in Canada. I think we have covered your question.

Comment — (Frank Calder)

We are talking about land settlement. This is our third day. I told Rod that I would like to go to Vancouver to hear this, as I would like to get some points because of negotiations on the Nass. We are the only ones negotiating. No doubt Gitskan will be next and about thirteen other people will be negotiating soon. Nevertheless, I came here to get some lessons, some points that might help us in our negotiations. Now that we have our heads packed together, I am going to say something about those people who spoke on behalf of the situation in the United States. That is where I have been learning. I have learned from Taylor, and also of course, Berger. Berger is working to prevent a collapse. The young lady last night, Janie Leaske, I think she gave an excellent talk. You know, they can deal directly with Indians in the United States, because natural resources are a federal responsibility. How many states are there, 50 states? You know the federal and the provincial situation in Canada. I do not give a hoot about jurisdiction. I am dealing with the invader who took my land. It is not my business to get on my knees and go to Victoria and say, "please come into the negotiation." You guys came over on the same boat, the Mayflower. It is federal business to get the province in, it is not my business. You guys are all the same color. In that respect, jurisdiction is not in my dictionary. You bring the province in because you guys are all the same. You created that jurisdiction under the British North America Act. I do not have to go kneel, and ask the province to please come in, because they control the natural resources. Social services, public services, the whole bit is theirs. If you, in the Federal Government decide to favor them by not trying to bring them in to the negotiations, what are we looking at in ten years? In ten years land claims will be phased out. You know I have got a hell of a lot of disappointments. Some I cannot even tell my friends. Ten years, and the whole bloody thing will be phased out. You bring up jurisdiction as a reason for procrastinating. I do not care what you call it. Municipal, federal, provincial, or regional government, it is your job to come in and settle. During the early 1950s, I was tutored by the late Andy Paul on land claims. We called it the "land question" in those days. Andy handled the races for the Vancouver Province. He had the old Province Building. He tutored me for five years. I still consider the late



Frank Calder

Andy Paul, perhaps one of the greatest leaders in Canada. He was known as a "lawyer from Philadelphia." He was the only guy that could walk into a court and defend an Indian. But that is the respect they have for Andy Paul. The late Andy Paul and the late Dr. Peter Kelly, all Indian people know these two giants. On the last day of the joint parliamentary hearing in Ottawa, 1927, the Superintendent of Indian Affairs, favored the government and denied that we have any rights. Andy Paul told me that the Indian delegation just bowed their heads. He could not believe it. Here is their man, the superintendent of Indian Affairs bowing his head, beaten. That was the end of the ball game. That was the defeat of the Indian people. Andy told me he and Dr. Kelly waited outside for Scott to come out. Scott kept talking to some of the government officials. Scott seemed to know that these two fellows were outside waiting for him. Finally, he just had to come out. These two Indian leaders were on either side of the corridor. Andy Paul asked him, why did you do this to us? Why did you defeat us? Why did you deny? The guys answer is beautiful. The late Scott, the superintendent of Indian Affairs, said:

If I ever recognize and accept what you people want in this land deal, it will have rocked the very foundation of Confederation, it will smash the principles of real estate. I had no choice, that is the way it is.

This is still going on today. It would upset the whole principle and smash the very foundation of Confederation if the government ever decided to say to the Indian: "Yes, I recognize your right." "This is really your land." What is going to happen if this is ever said? I have never forgotten that and I never will. Here is my boss, the guy that was telling Peter Kelly and Andy Paul. In my books this is still going on, the denial that I have title and right. One more thing, in 1955, we decided among our young leaders in

Nass, that we were going to form the Nishga tribal council. One of the things that happened not too long afterwards, was the attempt to create a provincial unity. There were five organizations at that time, and I succeeded in getting in another five presidents, one from the Island, the North American Indian Brotherhood. They called us the "big five." Almost over night there was new organization formed. Something like a confederacy of Indians who damned us and they succeeded in smashing the "big five." The five presidents signed an agreement in Nanaimo, that we were going to create the British Columbia Indian Land Settlement Committee, comprised of we five. We always felt that there might be some difficulty if we did not create a provincial unity west of the Rocky Mountains, where there are no treaties. What is happening today? When we talk about boundaries, you tell us to settle among us the boundaries between our lands. The little squabble we are having with Neil's tribe becomes more serious because of the claims policy. *In All Fairness*, it says, not in the exact language, "you solve the boundaries before we talk about settlement." Today, my friends, I am going to tell you, the Indian people, the Okanagan will claim this one, the Shuswap will say this is my claim, the Nishga say this is my claim, all over the province. You know what you are going to see? The guys that actually know the boundaries are all up in the happy hunting grounds. The new generation does not know anything about these boundaries, believe me, by the time the present day tribes knock out their claims, you are going to see that half of the bloody province is unclaimed. Till my dying day, I would like to see this bloody unity. One solid Indian unity in the Province of B.C. Is anybody talking about the Columbia power, all the dams, the industries of British Columbia? This is a very highly industrialized province. It is just loaded with natural resources. Are the Indians talking about all this? No, they are not. Because we do not have unity. But the whole bloody moratorium, the whole province can see how powerful the Indian unity is. But we are disorganized. It is the reservation system that separates. We talk about our own system, but it will never work. I am trying to outline three little things that bother me, and if we do not solve them, I am going to tell you that in ten bloody years land claims will be phased out. We have got to damn well do something about these things. I hope I have made my point.

Comment — (Brad Morse)

I want to pick up on a couple of things that have been said. It seems to me that we get a lot of federal excuses as a result of federal obstacles. We get excuses that there is no free land available to have a land settlement. I have a lot of trouble with that. First off, as you well know, millions of acres of Canada were given the homesteaders, were given to the railways, were given or leased to timber companies, mining companies, petroleum companies. All that has always been possible. It has always been possible for the government, if it wants, to buy land from people or from private interests. Government will have it, or they will expropriate it with compensation. If they want to they can. When the Federal Government says we cannot deal with this land, because it is in private hands, what they are really saying is that we do not want to deal with it. Legally they can do it, no problem. Talking about not enough money, I think Chief Robinson mentioned there is not enough money. Again, the Government of Canada gives

hundreds of millions of dollars a year to Canada Air, it bails out Chrysler, it gives billions of dollars in grants to other companies. They have money for this. It is the question, again, of wanting to do it. Not that it is not there, it is just wanting to do it. You just mentioned, provincial jurisdiction over natural resources. That again, is just another federal excuse. The Federal Government, if it wants to resolve the claim, has the authority constitutionally to do so. Even though the provinces generally own natural resources, the Federal Government, for example, has taken control over the uranium industry. It is a natural resource. They have the authority under Section 92-10C of the Constitution, to declare any resource of national importance, and take it over. They have the authority under 91-24, in terms of Indians and lands reserved for Indians. They have got the constitutional authority, but they choose not to use it. They choose to want to deal with the province. That is okay if the province is prepared to deal. If the province is not, then it becomes an obstacle. In the north, the Federal Government has tended to keep the government of the N.W.T. out of land claims, even though they are a sympathetic Government that wants involvement. They are involved to a small degree, but basically the Federal Government has kept them out. In the Yukon they say, "Oh no, we cannot have a settlement, unless the Yukon Territorial Government agrees." They are both Territories. Nothing to do with the Constitution, nothing to do with law. It is a function of the Federal Government. There are also other obstacles such as extinguishment. You do not need to have extinguishment to get a land claim settlement. It is not God given, not part of the law that extinguishment has to be included. It is a question of wanting it. We hear that land claims can include self-government. Self-government has got to be dealt with in the north, or in the context in the N.W.T. constitutional development, has to be dealt with separately from land claims. There is no reason for this to be true. Again, it is a matter of the Federal Government wanting it so. In terms of popular support, I think that we have seen that there is broad popular support in Canada, for justice and fairness in land claims and self-government. Some of the first Nations did a poll and it showed overwhelming public support. When the first ministers dropped the entrenchment of aboriginal treaty rights out of the Constitution, there was widespread outrage and it got back into the discussions within a couple of weeks. So there is the popular support. What we have got is a problem of political will, particularly with the Federal Government. The Federal Government has the resources and the clout and the constitutional status to resolve things if it wishes. If it wanted to do a moratorium, for example, as Chief Robinson has suggested, it can do so. When Mr. Justice Berger, was conducting the MacKenzie Valley pipeline inquiry and called for a moratorium, suddenly land claims got rolling. What Peter Taylor was telling us, was that when there was a land freeze on land in Maine, suddenly land claims got going and Maine was prepared to accept that the Native people could have tribal government. When you get a land freeze, things change. Janie Leaske told us that in Alaska, when there was a freeze on land, suddenly everyone wanted to have a settlement. Perhaps that is forcing the government, but it is all a question of political will, and all of these other things, it seems to me, are just a scam. A series of excuses and obstacles that make it seem impossible to move forward. But it is usually just a way for the Federal Government not to do something without looking like the heavy. In Ontario,

sometimes when we get the Ontario Government on side, then the Federal Government backs off. Fred Walchli, when introducing Ted Wilson, talked about a fishing agreement. We negotiated a fishing agreement in Ontario. Ontario signed it, the Chiefs of Ontario signed it, the Federal Government negotiated it, but refused to sign it. Prior to the agreement, the Federal Government was willing to go along with Ontario. However, once both sides came on side, the Federal Government backed off.

Question — (Philip Joe)

Given the comments that have been made over the past few days, I was wondering if the bureaucrats would change their attitude on some of these things. For example, the negotiations on cut-off lands are narrow and legalistic. The attitude is that the law precludes looking at cut-off claims in an objective, unrestrained way. If they keep this attitude, I do not think we are going to get anywhere. The Penner Report, which was agreed to by all these parties, did not address this question. It was probably written by bureaucrats, because the results were completely different from the recommendations. The government has to change its attitude. I am talking about politicians changing the policy on land claims. Will the bureaucrats change, or is it such that they are so entrenched in trying to protect themselves and trying to protect Her Majesty the Queen, through the Department of Justice, that nothing is going to happen? I do not know if anyone can answer that, but it is a new problem as far as I am concerned.

Answer — (Neil Sterritt)

I think the interesting thing is that we have four things which we are addressing. One is the Constitution, one is the Indian government protest, one is land claims negotiations, and the other is the courts. It seems to me that in terms of a legal framework there are all kinds of weaknesses. One of the observations that we had, in terms of constitutional discussions, is that on the one hand we have Section 35, which includes the existing aboriginal rights of the aboriginal people of Canada. We have the land claims process in which you have to sign an extinguishment clause. In the courts, the Federal Government and the provincial government are taking on cases where they view aboriginal people as having committed some sort of a crime under their law, and in going through the courts. If we lose, then that diminishes the definition of Section 35. It seemed to us when we were involved in the constitutional talks, that if that is the way it is going to be, then maybe what we have to do is bring to the courts a case that is going to define what Section 35 really means. Address that in a legal sense. I do not think it is a question of just doing one or the other. I really feel strongly that all court processes have to proceed. Your example of what happened in the Indian Government Paper demonstrates that despite the strongest recommendations by aboriginal people, the strong recommendations of the Parliamentary Committee to Cabinet, what finally came out was a far cry from what the Committee recommended. It just was not there, because what they are talking about is giving some power to aboriginal people in Canada. Nobody is going to give away power, either we take it or we force it through some forum. I just feel that aboriginal people have to be prepared to use the legal process. People have already talked about it. They have talked about the affect of economic pressure, because of a megaproject, or something.

I think that we have to create economic pressure. Aboriginal people have to create it, or we are not going to be negotiating meaningfully at the table. We are not going to achieve what we want. I have heard from some groups that are negotiating, that economic pressure is being created by the Federal Government. The Federal Government has not negotiated in good faith. They have access to the money that may go to the bands. I have heard from some tribal groups that if they cannot get an agreement in a given area, that bands stop getting money. In other words, the Federal Government have all the cards in their deck, and the people have difficulty because of the kind of economic pressure being created against our people. It forces our people to move to agreements that they might not otherwise accept. I just think that we have to become legal, we have to create whatever power we can, political power, any type of power, whatever we can do to force the issues. I also believe that whatever we do will end up in negotiations. Whatever it is, we will ultimately be negotiating. So let us become good negotiators. Let us do what we can. But we have to create the political pressure. We may have to do it legally, politically, whatever. I hope I have addressed the area you were addressing.

Comment — (Ted Wilson)

Mr. Moderator, I would like to get back to the first question that you posed in terms of concepts. Much reference has been made about the federal approach. I would like to think that concepts can change, and we can work with them. But I think several of the other speakers have touched on, what I consider a much more fundamental question. That is the question of political will and the public pressures. Much of the discussion has centered on comprehensive claims, or claims in areas where there have been no arrangements good, bad or otherwise to date. My experience is in Ontario, where essentially all the provinces have been included one way or another, in some kind of treaty. However, there are some threads that, I think, run through them all that were helpful to us. I tend to think further that the agreements we strive for, whether they be through self-government, constitutional, or whatever, must be negotiated. I do not think we should stand aside or wait until we have agreement on the entire spectrum of areas of interest, before we go ahead with some agreement. However, the point, I think, we come back to each time is the political will. This is a political country, and that is as opposed to some other forms of government in other parts of the world which, I think, are less palatable. I think, to date the provincial and federal governments have shown a great deal of political will. I think they have shown a great deal of political will to deal with Natives, by including the appropriate sections in the Constitution. I would expect that some of you here, with more experience than I, would probably have found that a little too much to hope for a decade or two ago. I think we have found the political will on the basis of things that have been said today: in the perceptions of the public that have been shown and in the poll. There has been a lot of political will shown. The political will is based very largely on an emotional, philosophical, psychological basis and not on a good understanding of the basis from where the Native people find themselves. We all have a certain fear of the unknown. I think one of the things that would help most is to ensure that the discussions held between the Native people and the government, are well understood by the

public at large. Most particularly, that we understand and provide for the others, information on all parts of the equation. What are the impacts of what is being dealt with? I fully expect that by a clear articulation of the impacts, it can be shown in fairly clear terms that we will have a much better understanding and acceptance of the settlement being proposed by the parties collectively. There is one thread that I see, particularly with respect to government, where we should be doing more. Not in bureaucratic terms that are easy to run around and hide behind, but in fairly hard nosed terms.

Question — (Dave Sparks)

Peter Taylor, on Monday, talked about the concepts that exist in the United States with respect to Native tribes. What I would like to know is whether or not the Native people in this Province would be satisfied with that same relationship between Canada and the Native tribes in Canada. Because if that is the case, it seems to me that we could take the gist and the substance of those decisions and put them into legislation and establish the relationship between the Indian Nations and the Government of Canada. I think that this would still be possible within the framework of our Constitution. Dr. Jackson, yesterday, commented on the change in the position of the courts between Marshall and the Calder case. In Marshall's day the courts deemed that aboriginal rights could only be extinguished with the consent of the Native nations, whereas the judges in the Calder case basically said that the aboriginal rights could be extinguished by government. They were, however, divided on whether that had or had not occurred. I think when the Constitution was patriated, the terms and the game rules changed, I am not sure. Given the provisions of Sections 25 and 35, can we today, extinguish either federally or provincially? Can we extinguish aboriginal rights and aboriginal title if they are one and the same thing, without a constitutional amendment involving seven provinces and 50 percent of the population? Are we not locked into a situation where the concept of land claims settlement as such, is just not on? Maybe we really should be working toward the concept of nation to nation relationship. Maybe the term that we used in the 19th century of treaties is not that far off. Maybe what we really are talking about is establishing treaties today, as the solution for the foreseeable future.

Answer — (Neil Sterritt)

The first question was, would the Native people of Canada be satisfied with the U.S. concept of sovereignty? The second question was can we today, given Sections 25 and 35, extinguish aboriginal rights and title without constitutional amendment? On the first question, for those of you who are not aware of it, the tribes in the United States generally have what is called a domestic, dependent nation status. Which is a recognition of some given level of sovereignty. Congress has an override. They can legislate away that sovereignty. Speaking only for the tribal group that I represent, what we feel is a prerequisite, we feel that the sovereignty of the Gitksan Nation must be recognized. That has to be established and recognized by Canada. When we talk about sovereignty as a concept, we are talking about sovereignty at the highest level, nation to nation. That is the basis for where we go from here. We know that times are different. We also can prove that we do have sovereignty, that there was a sovereign status be-

fore Europeans arrived. Would we be comfortable with domestic dependent nation status? There are different levels of sovereignty between total or absolute sovereignty. The trust relationship of the Indian Act is one extreme. These are the different phases we are looking at. Where we end up depends on what the people tell me. That is, what we should negotiate. In terms of treaties, you are right, those treaties are the basis for agreements between nations. We should not downplay the treaties, we should downplay the bad faith that has been displayed by the Federal Government in terms of treaties. I think that a treaty is the way to go in the future, and I think most of you would agree with that in the Assembly of First Nations. That is the principle we are working towards. Treaties in the future, which are protected in the Canadian Constitution, as in the James Bay agreement. It now has treaty status. Okay, can we today, given Sections 25 and 35, extinguish aboriginal rights and title, without the constitutional amendment? I think that is a big question. It is an important question and I do not think the Federal Government is really certain about the answer. The left hand does not know what the right hand is doing. Signing the Cope agreement and extinguishing title, signing the subagreements on the CYI, for the Yukon Indian, and extinguishing title. I do not know why they cannot pull that all together and recognize it. I think that can be tested. I am not a lawyer. I establish positions politically, then the lawyers have to follow through. There are lawyers here. Tom Berger could not tell you the other day. I think that somebody can. I think that the Federal Government is in trouble on that one. I do not think that the negotiators should be negotiating on the basis of what is known about Section 35. Otherwise the land claims agreements are in bad faith right now, when such negotiations include that clause, as far as I am concerned. They are being negotiated in bad faith, when that clause is there and the definition is not in of what Section 35 means. I think that in some ways they are rushing the agreements through. Actually, I am doing this on purpose, I want to see what is said. I want to give him a hard time, but he is not really rising to the bait. I honestly think that they are in bad faith. They cannot do that and it is going to be tested for sure.

Answer — (*Brad Morse*)

On the question of extinguishment and the constitutionality of extinguishing Native rights in light of the Constitution, the only thing I would say, is that we are advised that we can extinguish Native rights, with the consent of the Native party. That is what happened in the Cope agreement. I know very well that there are different schools of thought on this, and I would never attempt to rule on it. It is quite possible that Neil is right and it could be tested in court. Only the court can tell us, which interpretation is right. I would not attempt to do it here. I might ask Neil, if he wants to go one step further, as to whether a band or a tribal council can extinguish those rights. Considering the minority in the group may not go along with what is being developed by the band negotiators, are we talking about individual or collective rights? Does an individual have his rights, or will the decision of the larger group prevail?

Response — (*Neil Sterritt*)

This is an interesting debate that we have gotten into. Individual rights versus collective rights. If I was to de-

scribe to you why the Gitksan (Wet'suwet'en) have sovereignty in this territory, I could describe to you how that system still exists today, and I think, Ted, you were at a session where I went through this in Winnipeg, for the Constitutional Committee. We say that we do not have the right to extinguish title. We cannot extinguish the rights of the future generations of our people. We cannot extinguish the title of future generations. I think it is entirely possible that if a tribal group, the negotiators, sign subagreements, that an individual could challenge it in court later. I think that is quite possible, and quite likely to happen at some point. There is a whole leadership who does a lot of talking and negotiations on these issues, and sometimes these discussions do not filter down to the individuals. I was at an international conference, in Yellowknife, two weeks ago, and a lady from Alaska, who is actually spearheading the work that Berger is doing, was there. As a result of what she learned working for Berger, she pointed out what was really interesting about her visits to the villages. She said that while up there, most of the village elders stood up and spoke, only in their own language, because that is all they know. However, what these people said was: "Who agreed to sign away our land in 1970 or 71? We do not know anything about it. We do not know anything about these village corporations." She visited 50 villages and they claimed they did not know anything about the Alaska Agreement. To me, it is entirely possible those people could go on to challenge the Agreement. This is not an isolated situation, it has happened in other parts of Canada. I think an individual could stand up and challenge these agreements and they probably will.

Comment — (*Arthur — Last name unknown*)

I have listened to a lot of people over the last couple of days. I have listened very carefully. There are three key groups in attendance, the Native community, the government, and the private sector. I hope out of this conference, that each one of us will learn from sharing our different ideas about what we are doing and what we are trying to do. I have been involved in politics for the last six years. I respect the gentleman, Rod Robinson. He has been in politics thirty years or more. The other gentleman from the Nishga, and I respect people like Neil Sterritt. They have been involved more than I have. I have been in front of different committees, as you know. Governmental committees, special hearings, I have been involved with different companies. I had hearings with different companies and with our band. Apparently the neighbor next door here, belongs to the big company that runs megaprojects. I have heard a lot of talk on aboriginal rights. Where I come from our people believe, and we will always believe, that this land is ours. I just want to point out that when we make statements to government agencies, and when we make statements to the private sector, or whatever, they do not seem to listen. I have been going to court for four years. I have two hunting charges laid against me, and they say I am breaking the white man's law. I had one hunting case thrown out of court because there was not enough evidence, and I had a couple of fishing cases thrown out of court. Once again, there was not enough evidence. I just want to point out to the people that we have had a lot of support from our own band members. They have the same concerns as I do, and we are going to stick by our beliefs. I am still going to court on one charge and I keep wondering, as I listen to this conference, what is going to be the

final decision of the court with respect to my case? It is coming up in Ottawa. It is going to the Supreme Court of Canada. It is a hunting charge. What is going to be the outcome? I ask myself, and my people ask the same thing. When we talk about aboriginal rights, how many people understand what it really means? I keep thinking of all the work we are going to have to do in the future. I know there is going to be no shortcut. Maybe after this conference, more and more people will realize what we are trying to do. We are trying to share each others views and hopefully all the government people, and the private sector will take at least what they have heard here, and try to take it back to wherever they go. Pass the message on that the Indian people here are only sharing what is really ours. I guess we are one of the thirteen other bands who still have to negotiate land claims. When I look at what is ahead of us, and I look at the children behind us, it gives me more courage to get up and say what I have to say. I really believe in the Indian's spiritual way of life. I use my spiritual beliefs to help me, because I know I am not alone here today. My great, great grandfather is probably with me. That is why I had to say something about this company — the Westcoast Transmission Pipeline Company. We had hearings with them on our reserve. We actually got them to come out there to hear people's concerns. Everyone that made some statements to this Company, spoke from here and that is how we always speak. We speak the truth. That is why I say I respect a lot of people who have been involved already, in this fight, the struggle that we have. When the people of Westcoast Transmission spoke, we had the B.C. Utilities Commission there. It made them think, and I guess they are starting to understand what we are trying to put across. Where the people actually share their true feelings. They want to build this pipeline through hunting and fishing territory, and we do not want that. I guess they still have not come to terms on how to respond to us. We had hearings in the next building. We were there for two days, again reminding them and telling them that the land they want to put this pipeline through is ours. We always had that belief, and in the end, when I did my closing statements, I told them what I believed in, and what we believed in as Indian people. We have volumes and volumes that we have presented, and that we have heard from those people, but they did not even recognize what we have told them. I believe that this is the way it has always been with different companies, different organizations. Somewhere along the line somebody has to say we agree with you. I believe that somewhere, somehow, the government is going to have to say that we finally agree with you. That is what I want to hear. I know I have a long struggle ahead of me, I know we all do as Indian people. We have to come to terms today, tomorrow, before the conference is over, that at least we understand each other. I get frustrated when I hear government people talk. I watch what is going on in Ottawa and I watch different governments. With the panel up there, and with the faculty of law, I just want to ask what does it take for Indian people to be recognized? I know this question will never be answered. Right now I keep wondering what are the courts doing, or how do they make their decisions. Like I say when I speak from here, when somebody makes a decision on what I have to say, they want to go around the questions I ask. We all have our problems with the land question, with the different governments, especially on the reserve. Today we do not own that land, it is only held in trust for us. At least that is the way I understand it. I try to explain this to the band

members at home and they do not want to believe it, because they say that this is our land. That makes it harder for me, as a leader, to put forward to my people what we have to go through. I have a good idea now of the steps we have to take for the future, but it is going to take a lot of cooperation from a lot of different government agencies. Even though I say this today, it may be forgotten tomorrow, but I will still remember. I do not know if anybody from Westcoast Transmission will want to bother with this. We have tried to get our point across to them, but they have turned it around, and they have not recorded what we have said. Apparently they are not going the route that they had originally chosen. There were two routes. One was to go through our territory, and the other was the B.C. Hydro route. Apparently they have chosen the other one. They did not mention us in their news release. What do we have to do to get our point across?

Question — (Tom — Last name unknown)

I think, Art, it is an important question, because getting our point across, means that the other side is starting to be educated on what the issues are. That is what Ted Wilson was talking about. For example, involved in the constitutional process, there are a whole bunch of people who have become educated. Just like on the Penner Report, the Indian government process, there was a small group of people who have become better educated on our issues. In order to get our point across there are two ways to do it. Number one, we have to be very clear on our issues, you know, and sit down and really analyze what it is we are trying to say, and what message we want to give to the other side. On the other side, they have to be prepared to sit down and listen, that is communication. I think that in order to do that, we have to be patient. I think that we have to really examine what the issues are, what is it we want to educate them on. What do they want to know? When we talk about rights, we have often assumed that everybody knew what we were talking about. When we say that we have title to this land, we assume that everybody understands that. They do not have a clue. Not only that, they do not even believe us. That is the heart of the problem. How do we get the message across to them and how do we force them to listen? I think by accident they put in Section 35 in the Constitution, and now they have to listen to us whether they like it or not. There are a whole bunch of bureaucrats that have to sit and listen to us, as we explain what it means. I have watched the Attorney General of B.C., Brian Smith, sit there reading a newspaper, right in front of everybody, while we are talking. We are not allowed to take cameras into those meetings. If I had one, I would have taken it and issued it to the Vancouver Sun. I would have shown you how prepared the Attorney General was to listen to what we were saying. On the other hand, and Ted also made this point, there are some governments in Canada who are listening. The Premier of Ontario and his senior staff are really listening. That Province, as far as I am concerned, is turning around. The aboriginal people in Ontario are really doing a good job of lobbying and meeting and forcing issues, like the fishing issue that Ted is familiar with, and the others. Premier Hatfield, of New Brunswick, who as Ted described, the issues had an emotional appeal to him. He was really educated; he was listening. He is the only Premier, by the way, that also attended the Attornies General meeting. He was getting educated. The provinces that are not getting edu-

cated are B.C., Alberta and Saskatchewan. Nova Scotia is not too great either. But that man, even as bad as he was, at least we were pushing buttons, he was pushing ours. When we talked afterwards, say in a social scene, he was actually growing, he was learning. But the largest amount of education has to be from us to those people. I think that because of your case, the case that you are addressing, that they are getting a message. Someone is getting a message.

Comment — (Speaker unknown)

The greatest part of the education has to be from the collective us to the people. I think that because of your case, the case that you are addressing, that someone is getting the message. You are in the position to explain in court, or to your people in your community, what that case is all about and see that it gets publicity. Going and speaking to Westcoast Transmission, that is a very important process, but you have to sit down and figure out what the message is that you want to give. You have given them a number of messages and you have to continue to do that. They may not want to listen. They may not have the time, but at some point they are going to have to listen. As far as I am concerned the biggest issue is how well we tell our story. We have really got to be conscious of that. We get financial support to go to conferences, but what we need is money for P.R. We need to find the money ourselves and we have got to do a good P.R. job — a really good one. We are lacking in that department. Unfortunately, we have to do it. We have to tell our story.

Comment — (Speaker unknown)

I wanted to pick up on that last point because I think the major player that we have not addressed, to keep informed, is the general public. Let me give you an example of that from outside of North America. In the State of South Australia there is no recognition in law of aboriginal title. No constitutional recognition anywhere in Australia. But in that State, largely as a function of public education, and a publicity campaign, they persuaded the State to negotiate two land claim settlements that total 150,000 sq. kilometers of land that covers the whole north and the whole west of the State. Two large blocks of land have finally been recognized as being owned by aboriginal people, and it is now in their hands. They own it outright. It is done through public education, through public pressure. It was not done through the courts, because they do not have a legal basis yet. It was not done through lobbying bureaucrats. Too often, they have had the impression that anything to do with Indian issues was either irrelevant in terms of votes, or would cost them votes. What was more important to them, was to go into Indian land and give it to say, the Westcoast Transmission for a pipeline. Promise jobs, that would create votes. But there is the other side to it and it is that kind of public education that has to be done.

Comment — (Speaker unknown)

There are many factors which come into play in negotiating an agreement. The government is there representing a certain number of interests and there is nothing to hide, and public opinion is another factor. There has been quite an increase in the political will of government to come to grasp with the issue of Native rights. It is because of a greater public awareness of the issue. The last constitu-

tional conference, in my opinion, was very helpful in that regard. The government and the Natives should work in improving that line of communication, with the public in general, because without that support I would be pessimistic on the outcome of the settlement of claims.

Comment — (Bob Goudie)

In order to share, we must be concerned about third party interest. I guess we have a couple of experiences that say that there is public support out there. There have been a few instances of saying "yes" by all means if there are rights and interests, and so on, that are owed to the Native, give it to them, but do not give it to them in my backyard. So long as you can do that without disturbing me, all well and good, go and do it. But here we are talking about a concept, about sharing and to share what? I think there is an experience we can relate to as well, with what the Federal Government tried to put through in terms of the National Energy Program. I see that in the attempt to recoup some of what was given to Alberta perhaps, and Saskatchewan in terms of the subsurface rights. Here you had one group of society that seemed to be deriving all of the benefits of one commodity and the government was agreeing for the need to share that commodity. Look at the reaction to that. I think that is very important. True enough the Premier of Ontario is becoming very supportive of the concept of Indian self-government. What we do not know yet is what does that mean? It has to go quite a ways yet before it is understood what it means. Perhaps the representative of the Province can tell us a little bit about what he thinks it means. In Ontario, where there are quite a number of Native people, what is the Province there prepared to do in sharing? What we regard too, I guess, in the non-Native society, as our inherent right and benefit. I know someone standing here who has long standing experience in trying to deal with the treaty of land title in Saskatchewan. He can give us some examples there too, where you seem to be making a certain amount of headway. But when people realize that in order to deliver on what you are talking about it affects them, then all of a sudden there is this dramatic pullback. That pullback comes through the political process as well. In Saskatchewan, in the last provincial election, two years ago, there were people that ran on a platform of undoing some of the things that already had been done in benefits for the Native people. We are a long way from being out of the woods on that sort of stuff. I have been involved in the land claims negotiations for about eight years and I have seen this dramatic change that has evolved. I think it is there. Sometimes it is very hard to see, but I think it is there. It requires across the board support from the Native people. The last example was the COPE settlement, where there was a concept negotiated by COPE for a ten percent cut for the Native people. Now as a concept, that was not new. The government has been doing that in various segments of society all over the place, but what happened there is that you had a lobby. One segment of the population of businessmen said "hey, that is not fair, you are giving somebody else rights that gives him a better advantage to compete against me." They asked COPE to look into the situation in order to be able to follow through in some form of settlement.

Comment — (Gordon Antoine)

In the fifth option, in my mind, is the reversal of the land

graft in terms of usage of the resources. Eventually, in my mind, they will start using what they consider to be theirs. Not necessarily suggesting that it has to be shared but actually using what is theirs. In other words, if you want a tree, you go and cut the tree. If you want a fish out of the stream, go get the fish out of the stream. If you want a piece of land to graze some cattle on, you put your cattle on and hold that land. I recognize that is probably the only way that Indian people are going to wind up pushing the government into some kind of position, in order that the laws of Canada can accommodate themselves with our needs and our perceived injustice. Unless that is done there is no future. It is coming to a point in time that the Indian band will have to develop their own big stick by taking what they feel is rightfully theirs.

Comment — (Speaker unknown)

I totally agree with you and one thing we are doing in our territory is using their lands in violation of provincial regulations. The extreme example is on May 1, the Provincial Government seized eleven nets from our people and when they insisted on a meeting with me to see what we could do about it, I learned that these were all elders. They were not young people at all, they were elders who wanted their fresh salmon, or fresh steelhead in the spring. I asked them what they wanted to do, and they said they wanted their nets back and I said well there are a number of ways to do that and suggested several options. One of them was to go in and take them. They said "that is what we want to do." So we did, we set it up, we went in and identified net by net who owned it and asked if there were going to be charges. We did a number of things, but in any event when we were all through we went in and we took our nets. I guess there could be a subpoena any time now, this was in June, but they do not know what to do. They do not know whether to charge us or not. They could charge us with theft, they could do a number of things, but our people are fed up, and we told Federal Fisheries and the Province that we are fed up, and that I have to do what my people want me to do, even knowing the implications, and that is what we did.

Comment — (Speaker unknown)

There are a lot of people out there who do not know what the Indians want. They want to know, and if they did know, they might be on your side. I think you have got to say that, I think you have got to take more control of more media. It is a crying shame, but there are a number of villages around this province who have a satellite on their band office roof or school roof. I have been in Indian homes at lunch time and kids are home from school having lunch, watching a woman on TV being raped and murdered. What is that doing to the culture? The media could be doing a lot for the culture to the land claims. One little line that I saw and heard on TV years ago, on a CBC show, was that the great crime in Canada is not that the Native people have been denied their culture, have been beaten out of boarding schools and so on; the great crime is that the people who came here denied themselves of the culture of the land. The media is a way to share the best parts of that culture. So please do more with the 20th century media. I think it is a new kind of vehicle for carving the same old story. People want to hear them say that. That is all I want to say.

Comment — (Speaker unknown)

I am going to tell you the true facts, before the last or previous election, the NDP party was in power and Bennett, at that time, was campaigning to be the next government. So just before the ballots were cast we had a meeting with Mr. Bennett and Dave Barrett and asked: what is your policy? Premier Bennett handed out a sheet of resolutions that were passed by the Social Credit party in Penticton. There were five points there, the other three I cannot recall at this time. But we still have that resolution from the Social Credit party, and one was that they would settle the outstanding Indian claims and they would settle the cut-off issue. They would return these lands. They would negotiate the price to return these lands. And the third was the formula for how they were going to settle, how they were going to fund the settlement of the land claims in British Columbia. And one, if they accepted our philosophy of sharing and they listed this, that it will not come out of the public funds, rather it will be based on revenue sharing. We would get a portion of that. When they came into power, a minister was appointed and there was quite a big ceremony symbolic of our way of accepting that there was going to be some form of negotiation that will follow the ceremony. There were three parties, the Nishga, the Federal Government, and the Provincial Government. The third hand is there. There has to be pressure on them from the multi-nations. There must be pressure on them from the private sector, to change their policy.

Comment — (Speaker unknown)

It reminds me of what the Six Nation people did during the American Revolution and the War of 1812. The Confederacy got together and they decided that some people were going to support the American, some would support the British, and some would stay neutral. In that way, no matter what the outcome is, we have got leaders who could say "we backed you." Otherwise, both sides would wipe each other out, while others would be sitting back waiting to pick up the pieces. There are two sides here, some will support one side, some the other. We will not fight each other. We will form our alliances on both sides and some will stay neutral in case somebody else comes along.

Concluding Remark — (Ted Wilson)

I have enjoyed the discussion and learned from it. We always take the approach that both governments should be at the table when we are discussing Native matters and hopefully that will continue.

Concluding Remark — (Marc Lafreniere)

It was also for me a learning experience. Interestingly enough, in our negotiations in Quebec, we had a lot of the same concerns and the same views that have been expressed here today. We realize more and more that it is a very difficult task ahead, but I think with good will and acceptance on both sides to share culture, views, and expression, I think that we can achieve what we are trying to do.

Concluding Remark — (Neil Sterritt)

Just briefly, it has been really interesting to hear the questions and see the interest in the topics. I have really en-

joyed it. To put it into perspective, here is where we want to be, somewhere up here. Here is where we came from and we have gotten somewhere in there. It is nice to know that there is progress, but we have got a ways to go and we know that. It is good to see that progress can be made, but some of us would like to really find ways to get that level of understanding about where we are and establish that. I found the whole conference very enjoyable.

Concluding Remark — (Brad Morse)

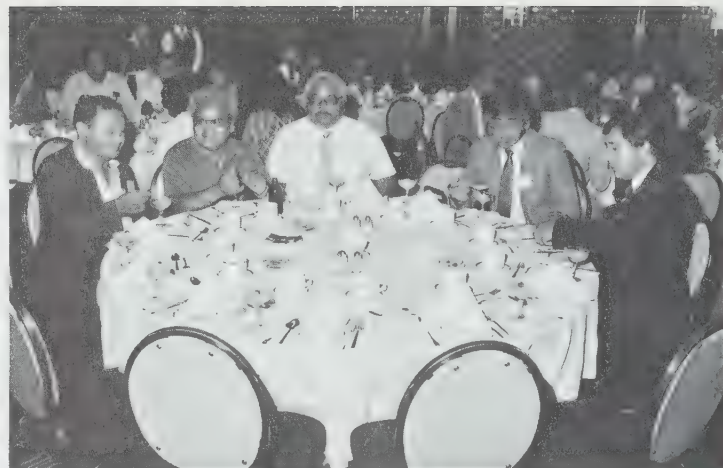
I completely support what Neil just said, and only add to it, that it seems to me what we are drawing from this is: That progress can be made, and it is going to be a hard struggle to do it. The conclusion is that we will have to continue to pursue on a whole series of different fronts. Included in that is the necessity of coming up with a lever. Whether that is a court fight, or just going ahead and lobbying for a moratorium, or in fact, going ahead and exercising traditional rights over land, and exercising sovereignty. One way or another there has to be a lever that pushes things forward: That things can go along at a level and then something happens to cause them to make a big jump forward, and that is what, on all fronts, it seems to me has to occur.

Summary Panel Discussion

by

Fred Walchli

The proceedings of this conference are going to be published, probably within the next three to four or five months, so the subjects, the issues, the view points that we have discussed will be contained in a book which will be available. I am not going to spend a lot of time going over the proceedings this morning. However, I would like to just briefly summarize it. I think the question was, are land claims still possible? Is it possible to arrive at a final and just settlement in 1984, and if so, what should the form of these settlements take? I think what came out of it, at least to me, was the fact that there is a claim that has to be settled. That the Indian people are not prepared to back away from the settlement of claims. The feeling basically is that the non-Indian has taken over the land, and they have not reached settlement, at least in parts of Canada, in British Columbia, and I guess, the United States. There is some criticism that came out about the legal, political framework under which the policy has been operated, and there is probably a need to look at that. The issue of extinguishment is very much a part of that and is a requirement that has to be dealt with in one form or another. I think the question of new concepts was answered, probably right at the start. At least one form of a new concept was put forward by Rod Robinson, when he suggested that we talk about coexistence and about sharing,



Claims Settlement Workshop Participants

and agreements being negotiated on that basis. I think Dave Sparks raised the issue of whether we are really talking settlements, or talking treaties. I think Neil agreed with him that really what we are talking about is treaties between nations, and perhaps that concept of sharing that should be considered.

The issue of the third party, or the silent party, was raised and discussed at some length. The role of the private corporation was identified as a major player in settlements, and the suggestion was made that the Indian people themselves should be more aggressive in pursuing that avenue. In order to get the private corporations to recognize that there is need for a settlement, and in fact, participate or support the idea of a settlement. I guess the question of the general public was raised and the need for an information campaign and education program, which would inform the public about Indian rights. What the claims issues were all about, what the settlements were intended to do and how they are arrived at. That was discussed at some length.

In terms of the avenues open for Indian people to influence the Government of Canada, there were five suggestions. We have the constitutional format, that is currently underway, where a lot of these issues can be addressed. The proposals for Indian government, which will be dealt with at the parliamentary level. The land claims process that involves dealing strictly through government programs. Then there is, of course, the courts. Finally there was the suggestion by Gordon Antoine, which was basically, for Indians to start assuming what they believe to be their rights. So there are several avenues open at this point. I guess one could conclude the discussion this morning, with the comment that we will be dealing with these issues for some time to come. I hope as a result of the discussion that some new ideas have arisen on how we deal with it. With that, ladies and gentlemen, I would thank you for coming and participating. I also would like to thank each of the panel members for giving so freely of their time and for making such a great contribution.

WORKSHOP DISCUSSION SUMMARY

Native Claims

SUB-THEME #4

As revealed in the discussions and presentations in this workshop, the moral and ethical question of how to treat original people has faced leaders of expanding nations since before recorded history. In a very real sense, this was in fact, a question as to how the leaders of expanding nations could placate the original people, and at the same time, ensure acquisition of the land and the resources necessary to assert overall sovereignty. In North America, the first settlers entered into a treaty process that provided Natives with certain legal rights on the lands they occupied. However, this process was not pursued as vigorously in all areas, and in every jurisdiction on the Continent. In some instances, the land was unilaterally taken from Indian people, in others, the terms and conditions under which Indians were required to give up their land were one sided, and considered unfair. In still others, the treaties or agreements under which the transfer of land was implemented have been violated either through neglect or misunderstanding. The overall result is that the ownership and title of a considerable amount of land and resources in North America are currently under dispute by Natives.

The approach used to resolve Native claims differs quite considerably between Canada and the United States. This difference can be partially explained by the two different systems of government. In the United States, the Federal Government enjoys greater control over land and resources. As a result, the Federal Government in the United States has far greater opportunity to enter into agreements which will resolve land and resource claims. In Canada, the ownership of the land and resources rests mainly with the provincial governments. The result is the Canadian Federal Government does not enjoy the same sort of freedom to enter into settlement agreements. They cannot enter into agreements which allocate resources or land to Native people without the concurrence and participation of the appropriate provincial government. As pointed out in the workshop, the Federal Government could invoke certain control over certain resources or land for the national good. This particular provision was contained in the British North America Act, even prior to the establishment of the new Constitution Act 1982, but it has never been exercised. In this regard, it should be pointed out that this distinction, which relates to federal control of land and resources, is one of the main reasons why claim settlements have proceeded more rapidly in the northern regions of Canada, where the resources are under federal control, and has proceeded rather slowly in the rest of Canada, where the resources are owned by provincial governments.

Although the two different systems of government, at least partially help to explain the differences in approach between the two governments with respect to land and resource claims, it does by no means provide the only, or most important explanation. In the United States a system of treaties was established in the earliest colonial times. As

part and parcel of this treaty process recognition was given to tribal government. Thus, the United States has established a treaty system which blanketed, for the most part, all the Lower 48 by the early part of this century. As a result, claims by Native people, are for the most part, decided in the courts. The courts determine legitimacy, content and substance of Native claims through interpretation of treaty.

In contrast, Canada did not pursue a system of treaties or agreements as vigorously as in the United States. In fact, up until the 1960s and 1970s, only about half of Canada was covered by treaty. The concept of Native self-government has never been recognized either by virtue of law or through government decree. As a result, until very recently, with the establishment of the Native Claims Program, every claim made by a Native group or band raised the question of aboriginal rights. Provincial ownership of land and resources, coupled with an absence of treaties in many parts of Canada, has served as serious impediments to satisfactory resolution of Native claims.

Although neither Federal Government has formally recognized aboriginal rights, treaties and court decisions have had a significant impact on how these rights have been interpreted. The settlement negotiations which took place in the United States during the eighteenth century, between about 1720 and 1760, reveal that the British Crown accepted the fact that Native people had what could be termed as a right to territorial integrity. Those lands which they occupied as their hunting territories, as the places where they lived, were to be regarded as belonging to the Natives unless and until they agreed to surrender them. Within these territories, Natives retained the right of self-government; the right to practice their own religion, to administer their own system of land tenure, and to manage their own resources. Subsequent court decisions with respect to aboriginal rights, confirmed the right of Native people to own and occupy land until they surrendered those rights or they were conquered in a war. However, the government had a right to prevent Indians from selling their land to any foreign country. Since that time, the concept of aboriginal rights has been reduced. More recent decisions have taken the position that consent is not required to take away Native land, but the question of whether or not title has ever been extinguished has never been answered.

With the legal system of the two countries rooted in the British justice system, the court decisions in one country serve as precedent for decisions which are made in the other. In this regard, there have been a series of court cases in recent times, which in effect have spurred the governments of the United States and Canada into evaluating their respective positions on Native claims. In the United States there was the Boldt decision which effectively gave the Indian people of Washington State direct participation in the management of salmon fisheries. Further, it entitled Indian people to 50 percent of the fish passing by usual

and accustomed places. In Canada, the Calder case resulted in a split decision, with three judges ruling that aboriginal title continues to exist, and three other judges ruling that aboriginal title had been extinguished. A seventh judge did not rule for technical reasons. A subsequent decision made by a judge in an action taken by the James Bay Cree ruled that they had legal rights and aboriginal title to the lands. Although this ruling was overturned on appeal, the law was sufficiently equivocal so that there was doubt as to what might be the eventual outcome. It is the belief of many of those familiar with Native claims, that these three cases together or separately resulted in the Canadian Federal Government establishing a Native claims program.

Although somewhat different in the United States, the same sort of motivation led to the Alaska Native Claims Settlement Act and settlements in the State of Maine. As noted by the presentation made in the workshop, pressure by the oil industry which wanted to proceed with the development of the Prudhoe Bay pipeline, the Alaskan government wishing to proceed with the Alaska lands entitlement, and the U.S. Federal Government's concern over the perceived failure of tribal assimilation, helped to establish an atmosphere that eventually led to the Alaska claims settlement. A land freeze in Maine precipitated claims settlement and the acceptance of tribal government. In other words, in both countries there were extenuating circumstances that helped motivate governments to proceed with outstanding claims settlements. In Canada this led to the establishment of a Claims Settlement Program which included the possibility of comprehensive settlements that involved more than just land, but also financial retribution. In the United States it resulted in the Alaska claims settlement.

Several speakers, in the workshop, referred to what are termed as "the morning after headache." In this regard, it was noted that after a settlement has been under negotiation for several years, and an agreement is concluded, there is a feeling of elation which is proportionate to the frustrations of the previous years. But this elation is short lived, because the universe does not immediately begin to unfold in a way which is consistent with the high expectations that were established during negotiations. Frustrations set in as a result of what was referred to as government inertia, old attitudes within the bureaucracy, different interpretations of the agreement, and the new realities that begin to emerge among both government officials and within the claimant group.

Among the most important of these new realities is the recognition that the settlement of a claim will not necessarily solve all the social, economic problems faced by the beneficiaries of the settlement. In fact, based on the information provided in the workshop, not only will a settlement not necessarily resolve social economic problems, but may in fact create some. For example, the beneficiaries of a settlement must have trained staff to implement the provisions provided for in the agreement. In virtually every case cited in the discussions, there was a shortage of trained Native personnel to follow through on the opportunities that were made available as a result of agreements. There was a shortage of organizational, financial and technical expertise. This was true in the Alaska agreement, and it appears to be true of every settlement made in Canada.

The other major item which contributes to "the morning after headache," was the social changes and the

changes in attitude that take place among the recipient group, as a result of settlement. Once a settlement is finally reached, new institutions begin to develop, traditional social structures are sometimes abandoned, and attitudes begin to change as a result of large amounts of money entering the community. This was noted in Alaska, and also amongst the James Bay Cree, in northern Quebec.

In Alaska, the establishment of profit making corporations, appears to have quite drastically changed the attitude of the Native people. As shareholders of the corporations, they appear to be more concerned about the survival of the organization and making a profit than they are about the provision of social services. In northern Quebec, the James Bay Cree have witnessed a growing gap between the older generation and the youth that can be partially explained in terms of a difference in willingness to discard old ideas and adopt new ways. Examples such as these, that are based on the experience of those who have been involved in claims settlements, served to emphasize the need for realistic expectations when negotiating claims settlements. The recognized need for realistic expectations was summarized by Rod Robinson, when he noted: "That times do change, values do change, and opinions change also." "There is a need for flexibility so that these changes in values, in attitudes, can be accommodated in future."

It would appear, therefore, that some important lessons have been learned by recent settlements, which probably will have both good and bad affects in future. On the one hand, it seems obvious that the Natives will be far more cautious about the terms and content of future settlements. This will probably serve to slow down the rate at which subsequent settlements will be reached. More positively, on the other hand, previous agreements will serve to emphasize the need for equity and flexibility, if in fact, settlements are to result in the final resolution of claims. In this regard, a government official noted that it was his view that settlement could be modified and evolve over time. The problem, according to this official, is to ensure finality, while at the same time avoiding any connotation affecting the right of claimants to maintain their culture and identity. Thus, in a very real sense, it appears that the discussions held in this workshop contributed to a better understanding of the realities of what can be anticipated as a result of claims settlements.

The apparent recognition of these realities, as demonstrated by the discussions in the workshop, did not dispel the tremendous amount of frustration that is present within the Native community about what is perceived as government intransigence. Reference was made to a lack of political commitment, lack of awareness among Canadian political leaders, and widespread misunderstanding among the general public. Of particular concern to the largest single group of participants in British Columbia, was the B.C. provincial government's refusal to participate in claims settlement. It was generally agreed that greater effort had to be made to inform both the general public and private corporations about the legitimacy, the substance, and ultimate consequences of claims settlement. In addition, it was agreed that there were five avenues open to Natives to stimulate more active response by government. The first was to seek to have Native rights entrenched in the Constitution. The second was to establish, through the parliamentary process, some acceptable form of Native government. The third was to pursue set-

tlements through the Federal Government's claim program. The fourth was to pursue settlements through the courts. The fifth was for the Native people "to simply assume what they believed to be theirs, was theirs, and start using what they felt properly belonged to them." While the choice of one avenue, or course of action, does not preclude Natives from pursuing another, it was generally agreed that negotiated settlements were preferred over those imposed by the courts.

Closely linked to the perception of government intransigence, is the view that there is a need for a new claims policy to ensure lasting settlements that will endure over time. The existing policy is perceived to be a narrow and legalistic approach, which does not take into account the variations in claimant groups across the country, and makes it difficult for provincial participation. Although it was conceded that some settlements have included within them major concessions in terms of access to resources, it was noted that according to the present policy, the government is to negotiate for land, the ownership of which has not been superseded by law, and in terms of money. The policy mentions resources only insofar as these resources are tied directly to the claims area land. The policy does not provide adequately for the ownership and shared management of resources; it does not indicate what concessions might be made to gain greater access to resources that are owned, for the most part, by the provinces.

The seriousness of these shortcomings are considered critical because of some of the views that delegates have about the past behaviour of the Federal Government. It was noted that a fishing rights settlement had been reached in Ontario. The Ontario government signed the agreement, the Chiefs of Ontario signed the agreement, but suddenly after previously agreeing to go along with Ontario — the Federal Government was said to have refused to sign. In other words, the perception is that the settlement fell through because the Federal Government refused to ratify that agreement. Therefore, despite the headway that has been made during recent years, this is considered an example of what is viewed as an act of bad faith on the part of the Federal Government. It creates uncertainty about the commitment of the Federal Government to claims settlements. It also raises questions within the Native community about whether or not the Federal Government is using lack of provincial participation, overlapping claims, and other such obstacles, as excuses for not adopting a broad approach that takes into account regional variations and greater access to resources to settle comprehensive claims.

Another issue of major concern in the existing claims policy, is the requirement to include the concept of extinguishment as part of the condition for settlement. Government officials indicated that extinguishment is necessary to permanently remove the cloud over disputed lands, and to ensure that settlements will not detrimentally affect the interest of the Crown within the claims area. The use of the term extinguishment is necessary to ensure that claims, once settled, can never be legally raised. According to this view, extinguishment serves to ensure that the government, and through the government, the larger society receive considerations which will protect the interests of the Crown and guarantee that all settlements are final.

The Native delegates argued that not only is extinguishment unnecessary, but raises fears among Native people about their basic aboriginal rights. The Native position is that they are Canadians, and like other Canadians, should

not be asked to renounce their cultural and historical heritage. Extinguishment is totally inconsistent with the ongoing constitutional process, and would make it easier for governments to breach the terms of any agreement that is made.

The basic fears raised by extinguishment are heightened to a considerable extent by what has happened in Alaska. In Alaska, Natives have given up their aboriginal rights for land, which may be lost through corporate takeovers. The concern that Native people feel towards extinguishment was most clearly articulated by Rod Robinson, who when referring to the Alaska settlement stated at different times: "You have put the rest of us on alert." "Your experience in Alaska is a long-term slap at extinguishment." "We could become drifters in our own country." In other words, extinguishment would eliminate some of the assurances that Natives feel are necessary to protect their rights and to ensure that government lives up to the terms of the agreements. Extinguishment is unnecessary for government, because Native people are willing to incorporate all the terms and conditions that the government feels are necessary to protect Crown interests and to facilitate rational development.

The concept offered by the Natives as an alternative to extinguishment is a system of treaties developed and negotiated between equals, with a view to both the immediate and long-term welfare of all Canadians. It is one where the Natives' place in society would be enshrined in the Constitution, so that Native people will receive cultural guarantees not dissimilar to those given to other Canadian minorities. It is one where Native people would be partners in Confederation, rather than subjugated, dependent people. Clear is the fact that it will not serve Canada to have claims continually resurfacing after settlements have been completed and implemented. But neither will it serve Native people to enter into agreements that will dissolve support upon which they rely, without adequate provision for the transition to independence and self-reliance.

There is little doubt that the majority of participants in the workshop believe that claims settlements are the key to Native independence and self-reliance. The key to settlements is the guaranteed access and shared management of land and resources on which Natives have traditionally depended. The greater acquisition and control of resources is the only way that Natives will ever be in a position to build an economic base that will allow them to generate sufficient wealth to free themselves from government paternalism. Native self-government is the mechanism that will allow them to control their own destiny and exercise the rights recognized through settlement agreements. The entrenchment of Native rights in the Constitution will protect Natives from infringements, such as those which occurred in the past, when certain concessions were won through negotiations only to be lost later as a result of unilateral action by government.

Perhaps the single most important question addressed during the workshop, was the one posed by the moderator of the panel discussion on the final day of the deliberations. In introducing the panel, it was asked whether or not it was possible to achieve final settlement in contemporary times given the limit on land and resources, the high cost of settlements, the need for provincial participation, and the thorny question of extinguishment. The presentations and discussions that took place over the three day session, suggests that settlement is not only possible but

necessary if Native people are to become fully independent and self-reliant. The benefits from claim settlements are not limited to just Natives. Settlements will help to eliminate uncertainty, and in doing so, create an environment that is conducive to private investment and economic development. Moreover, settlement will, over time, help to resolve a moral and ethical dilemma that has been in existence since before the first European arrived in North America. However, claims must be settled on the basis of negotiation between equals, and with a view to cultural interests, land and resources availability, and the long-term welfare of all Canadians. In this regard, it was generally agreed:

- (1) Both government and the Native people should make every effort to accurately inform the general public about the issue of Native rights. It was felt that this would not only serve to support government efforts on behalf of Natives with respect to Native claims, but it would foster a better understanding among politicians and industry about the needs and wants of Native people. It would, as well, help to dispel some of the misunderstandings associated with Native claims.
- (2) The Government of Canada should adopt a new claims policy that is broad in perspective, and takes into account regional differences across the country. It was noted that claims should not be settled solely in terms of money or land. Land is important and money is necessary in order to provide for full retribution, but access to resources combined with the right to share in the management of these resources, is absolutely essential.
- (3) Claims should be pursued through a system of treaties, which are negotiated between equals. Negotiations are preferred over settlements that are achieved as a result of court decisions. They have a better chance of satisfying both parties, and as a result, of enduring over time without the uncertainties which appear to have sur-

faced in fisheries' management as a result of the Boldt decision.

- (4) Extinguishment is considered unnecessary to the finalization of issues negotiated and included in treaty agreements. There should be enough flexibility in the settlement to ensure that the interests of the Crown are protected in land claims areas, and at the same time, ensures that Native people maintain their rights as Canada's original people.
- (5) Natives should develop negotiating positions that clearly outline what is wanted in terms of self-government and shared management regimes. These negotiating positions should be consistent with the majority views of those people that Native negotiators represent, and be based on the largest possible cross-section of the Native population. The views of individuals and minorities should be taken into account in formulating positions.
- (6) The B.C. provincial government has an obligation to participate in Native claims and the Federal Government, along with the Native people, should spare no effort in encouraging such participation.
- (7) Claims settlements will provide Natives with the opportunity to invest in human resources and to generate wealth within their own social and cultural framework. Resource allocations will serve as a basis for sustained economic growth. Self-government will allow Native people to determine their own destiny, and the future of their children. Over the long-term, however, the degree to which Natives together and individually benefit, will depend on the collective and individual initiative of the people themselves. It will depend on how well the government and Native people work together to plan, train, and initiate new structures to facilitate the transition that is required to take advantage of the opportunities provided through claims settlement.

CONFERENCE SUB-THEME 5

WORKSHOP OUTLINE

WORKSHOP TITLE:

Forest Resources

WORKSHOP COORDINATORS:

William Ewing, President,
C.D. Schultz and Company Ltd.,
Vancouver, Canada

Marni Robertson
A/NEED Coordinator,
Department of Indian Affairs and
Northern Development,
Vancouver, Canada

WORKSHOP FORMAT:

The Forest Resources Workshop was divided into three sections, each with its own topic area, its own chairman/moderator, recorder, and designated spokespersons.

The three sections convened sequentially. Everyone who participated in the workshop took part in each of the three sections. The three sections as presented below are as follows:

Section I:

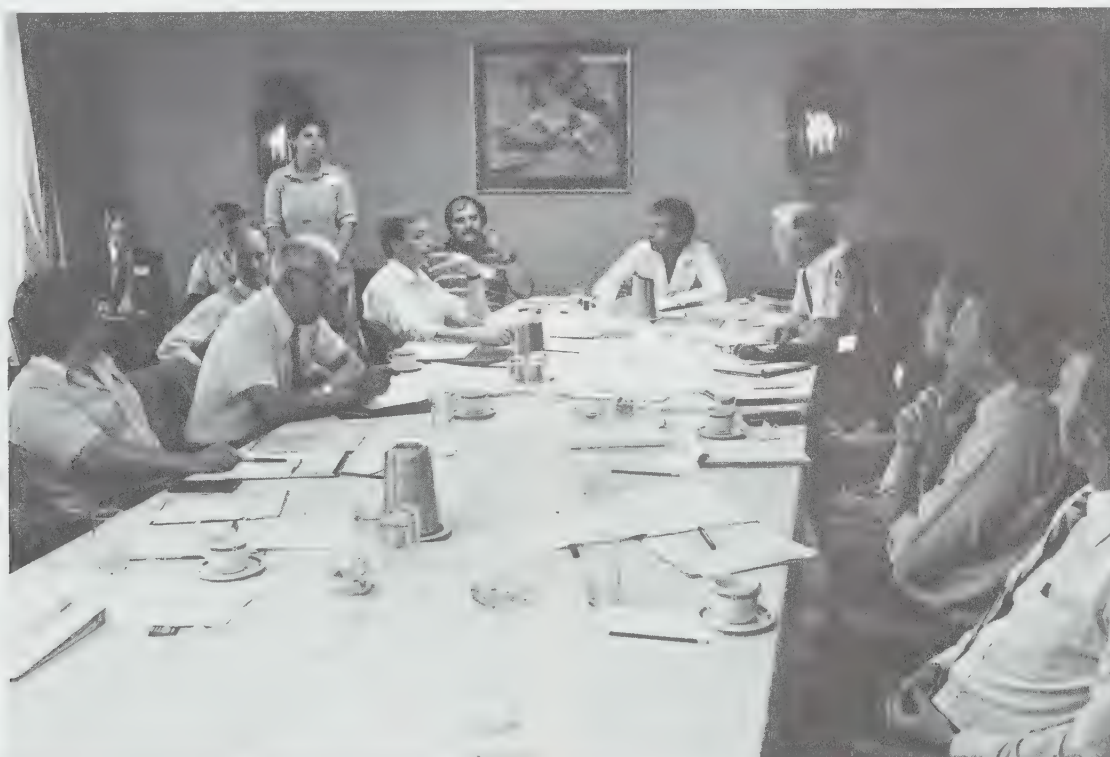
Indian Reserves — Forest Resource Management

Section II:

Training and Development of Native People for the Forest Industry

Section III:

Financing Native Forestry Activities



Forest Resource Workshop in Session

FOREST RESOURCES

OPENING COMMENTS AND PANEL PRESENTATIONS

Forest Resources Opening Comments

by

William Ewing
President
C.D. Schultz and Company Ltd.
Vancouver, Canada

As I was searching through many volumes of past rhetoric and historic works on the Natives of British Columbia attempting to find a few words of greeting today it became very obvious that we are well on the way to studying our subject to death. However, the many well intentioned reviews of the past and recommendations for the future have seldom resulted in positive changes. It is my hope that some of what emanates from our discussions here will provide us with some truly practical, on the ground, direction that will lead to positive future changes.

Our sessions in the next few days will centre on the forest resource controlled by the Natives of B.C. through federal reserve land. This land mass in B.C. totals 328,500 hectares of which 60 percent, or 200,000 hectares, could be productive forest land. Left to its own, this land can produce 1,500,000 cubic meters of wood each year forever. With better management, this same land could produce 3,000,000 cubic metres annually.

In order to provide a perspective on the extent of this volume of wood potential, let us draw some analogies. Three million meters of wood related to over 500,000 MFBM, (thousand foot board measure) or production from five extremely large sawmills, or 100,000 homes, or a ribbon of wood 12 inches wide, four times around the world at the equator — and this each year. More practically, this relates to a minimum of \$10,000,000 per year as a profit of the wood sold.

This forest will not grow on its own. It will require much clean up, nurturing, tending and tender loving care, all at a cost. It is my belief that if we look around, there is federal money available to rejuvenate these private forests and make them fully productive. Expect to spend \$25,000,000 to clean up the backlog, and \$3,000,000 annually to maintain the forest in production. When you consider the amount of employment this forestry work will create, and the potential net revenue that could be generated, is it any wonder that we continue to view the forest industry as our number one resource potential?

Our objectives during this week must be to review where we have been in the past, to determine why past methods of Native development have failed, to look at some success stories on development and to outline why these programs have succeeded. Finally, I would like to see if we can develop a sound practical program that will help

our Native people to share, to a greater extent in leading full, productive, self-sustaining lives. There is nothing so debasing to the moral fibre of a group than to be forced out of society and placed on the welfare role. A good example to draw from is the number of people in Canada who daily work on the Canada Works Program for very little more than their welfare pay. People want to — “no” need to — be productive in order to give meaning to their lives.

Let us first recognize that past programs established to attain the social and economic goals of the Native people have badly broken-down. A study of the reasons behind these breakdowns will reveal some startling facts:

1. The push for development has been largely from outside the group (for example, the government) and although well meaning, the donors are often uninformed about Native's goals and objectives.
2. The donor makes many basic assumptions as to the capability of the recipient and his ability to cope with what has to be learned and the changes in technology. The words to remember here are “evolution and not revolution.”
3. Most development programs tend to maximize capital and minimize labour, thus the opportunity to provide meaningful employment to the Native group is often limited.
4. Difficulties ensue in assimilating growth and development and ensuring an equitable distribution of benefits. In many instances, the squeaky wheel gets the grease, while the needy are not receiving service.
5. There is a general tendency to concentrate technology on “extra active development” or “mining” of the resources with no thought to the replacement or care of renewable resources. One prime example is the high grading of timber off reserves with no reforestation program so that there remains, in most instances, a vast acreage of unproductive land. This is not only true on reserve land — we have at present 10,000,000 acres of non-sufficient restored land in B.C. because motivation has centred on extraction rather than perpetuation.
6. We have not planned, organized, and initiated programs aimed at making the Natives self-sufficient and resourceful through organized training programs. If ever the responsibility is to be lifted from government shoulders for the welfare of Indian people, now is the time to recognize the need, objectives, and drive of the Natives, and to work positively toward these goals.

These points, by the way, are not only true of our Canadian Natives and Inuits, but they also apply to all third world countries. We of the (so called) developed world have aborted many projects, wasted much money, and created much confusion in the lives of those we intended to help. Hopefully, we, through conferences such as this, will

be able to see the errors of our ways and create a new beginning.

Let me say that this is not a conference of pussyfooting and sparing the feelings of our associates. We have had goof-ups (I know we have). Let us have it out on the table in blunt words, so that we all understand our problems. I am sure we will hear more than once, in these few days, the favourite expressions of our kids today "butt out and let me live my life the way I want."

1. If the Federal Government has miscued, let us say it.
2. If the Department of Indian Affairs has become too autonomous a bureaucracy and should be dissolved, then let us say it.
3. If the Natives bite the hand that feeds in spite of all attempts at help, then let us explain how.
4. If paid experts who have provided the help are not so expert, then tell us now.

Above all, be honest, straightforward, objective, and act with integrity. These sessions will then be successful.

SECTION I

Indian Reserves — Forest Resource Management

CHAIRMAN/MODERATOR:

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NATIVE REPRESENTATIVES:

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PRIVATE SECTOR REPRESENTATIVES:

Jim Cooper, President
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Williams Lake, Canada

A National Indian Forestry Program

by

Allen Hopwood
Forestry Advisor
Canadian Forestry Service
Ottawa, Canada

I am here today to describe an exciting new proposal for the development of Indian forestry lands in Canada, that has been in the works for about a year now. This proposal, entitled "A Comprehensive Indian Forestry Program" was put together by a group of representatives from Indian and Northern Affairs, the Canadian Forestry Service (CFS), and the Assembly of First Nations (AFN). The AFN headed the working group and initiated the work, while I

served as the representative of the CFS. Thus, I may not be the best person to outline this proposal. Someone from the AFN, like Elmer Derrick or Earl Smith, would have a better understanding about the significance of the process to the Indian people, and probably would have a better understanding about the development of the proposals and preparation of the report. In this regard, the words of Chief David Ahenakew of the AFN are appropriate. Chief Ahenakew stated:

This initiative represented a new style of work between Indian First Nations and the Federal Government, in that the process was Indian led and the proposed policy and framework was developed by First Nations in cooperation with federal officials.

Background

By way of background, it should be noted that the productive forest lands on Indian reserves in Canada total 1.1 million hectares (2.7 million acres). These forest lands are the base for many renewable resources such as forage, wildlife, timber, recreation, gathering, water supplies, and fish. These lands represent a major opportunity for social and economic development by the Indian people.

Over the years, Indian forest lands have been severely mismanaged. They have suffered from overcutting, lack of reforestation, and inadequate tending. There are numerous reasons for this mismanagement and for the fact that the Indian people have not enjoyed the full range of benefits inherent in the ownership of their lands. One of the more obvious reasons relates to the way the trust responsibility of the Federal Government was implemented: i.e. with little consultation or involvement from Indian People. Recognizing this problem, the Indian and Northern Affairs Canada (INAC) now has a policy of transferring control of economic and social development to the Indian People. This new policy provides Indian people with a good opportunity to take advantage of the benefits that could be generated through forestry developments.

Canadian House Of Commons special Committee On Indian Self-Government

Of importance to this proposal and to those involved in the preparation of the Indian Forest Management Program is the recent report of the Special Committee on Indian Self-Government. In November of 1983, this House of Commons Special Committee produced a report that analyzed the difficulties and challenges to the Indian people of attaining social, political, and economic self-determination. The report's findings represent a wealth of experience, knowledge, and research on Indian self-government. While much too broad in scope to focus directly on forestry, the recommendations contained in the report clearly establish the foundations upon which to develop a comprehensive Indian forestry program. Relevant points made by the Special Committee are as follows:

- The Committee recommended that the Federal Government establish a new relationship with Indian First Nations and that an essential element of this relationship be recognition of Indian self-government.
- To ensure prompt action, the Committee recommended that any changes of policy possible under existing laws that would enhance self-government, and that are acceptable to designated representatives of Indian First Nations, be taken without waiting for the enactment of new legislation.

- It was considered essential that Indian First Nations be able to get on with the task of economic development without delay.
- In the Committee's view, self-government required that Indian First Nation governments be free to make policies and to set their own priorities. To ensure that they exercise such powers responsibly, and that the people in turn are protected against wrongful use of these powers, these governments must also be accountable to the Indian people.
- The Committee was convinced that, in order to ensure that self-government becomes a reality, each Indian First Nation must have full rights to control its own lands in the manner it sees fit. This would mean power to decide upon methods of land holding and land management on reserves. Such areas should be recognized as Indian lands.
- *"Indian First Nations must have the power to plan and implement economic ventures at the community level. Such initiatives may take many forms. Indian First Nations should be free to set up economic development boards, corporations or agencies to use the funds received to promote economic development."*
- The Committee considers control of a strong economic base to be essential for the effective exercise of Indian self-government. In planning for development of the economic base, the people of an Indian First Nation should be able to set goals, define strategies, and then act to realize their potential. To do this they will require substantial funding.
- The Committee is entirely convinced that Indian self-government must be supported by new funding arrangements that will enable Indian First Nation governments to decide how best to meet their people's needs.

The Working Group

The working group I mentioned earlier was set up in September of 1983 to develop a proposal for a comprehensive, intense forest management program for Indian lands across Canada. The working group produced its report in February, 1984. The report proposed a program that is major in size, comprehensive in scope, and that is consistent with the recommendations of the House of Commons Special Committee on Indian Self-Government. Of significance, the proposed forest management program would:

- (1) Be the first venture by the Indian people into an economic program with national scope.
- (2) Involve a major portion of the lands held by Indians.
- (3) Be the first transfer of complete control of a major economic development program to an Indian organization by INAC.

Goals Of Working Group And Program Working Principals

The goals of the joint AFN/INAC/CFS Working Group were to:

- Implement a comprehensive, Indian First Nations controlled forestry land-use management and development program.
- Increase Indian business opportunities and incomes.
- Increase Indian training opportunities.
- Increase Indian employment opportunities and incomes.
- Improve Indian forestry skills.
- Introduce modern integrated and holistic forestry land use and renewable resource management approach for Indian lands.
- Develop more opportunities for Indian First Nations to gain access to forestry and other resources for both on

and off reserve development.

- Revise Indian forestry legislation and regulatory framework.
- Reduce Indian social problems and costs.
- Develop, over a ten year period, a self-sufficient Indian forestry sector.
- Demonstrate through implementation the viability of adopting a comprehensive, sustained yield, forestry land use renewable resource management development strategy for Canada's Indian reserves.

To meet these goals, it was decided that the forestry program would be based on the following:

- Comprehensive forest management practices are to be used to maximize the long-term social, spiritual, and economic benefits accruing from forest resources to the advantage of Indian First Nation governments and their citizens.
- The program policies and strategies are to be consistent with those outlined in the Canadian Forestry Service documents entitled, "A Framework for Forest Renewal" and, "A Forest Sector Strategy for Canada."
- Indian forestry is a long-term endeavour requiring appropriate long-term commitments to planning, scheduling, funding, and other resources.
- The standard of forest management practices on Indian First Nations land will aim to be superior to that which is currently practiced by progressive local forest managers.
- Education and training standards will aim to exceed levels offered by existing forestry educational institutions in the applicable region.
- High standards of practice and technical performance together with adequate technical monitoring and evaluation mechanisms will be central features of the program.
- The Indian First Nations forest land base will be preserved from single use alienations where the highest and best use is in forest cover.
- Forestry treatments will be confined to areas which can be maintained and protected as forest cover until final harvest, so that each managed unit will produce a profitable, even flow of forest products.
- Diligent adherence to technical considerations is an essential program ingredient for the development and implementation of Indian forest management plans. The technical considerations will be premised upon:
 - (a) Identification of land use options by Indian governments,
 - (b) detailed forest inventories,
 - (c) twenty year forest management overview plans and analysis,
 - (d) five year detailed action plans and prescriptions,
 - (e) training and testing.

The Program Proposal

The resulting forestry program proposed by the working group call for (and I quote):

- An integrated, comprehensive approach to the management of renewable resources on forest lands, which will emphasize forest renewal and the enhancement of related renewable resources.
- Initially, the Intensive Forest Development Program will focus on the development and implementation of sound forest inventories and management plans.
- A range of support policies and practices that are necessary to the sustain development of the Indian forestry sector will be developed by Indian First Nation governments in cooperation with the Canadian Forestry Service

and Indian and Northern Affairs Canada.

- Thereafter, Indian First Nation governments will monitor activities and consider issues for policy modification, program adjustment, and development.
- Areas of special concern include human resource development, appropriate forestry regulations, access to off-reserve forest lands, coordinated marketing and business development support, and identification of appropriate Indian institutions designed to facilitate Indian First Nations control and management of renewable resources.
- Because the current Indian Timber Regulations are antiquated and inappropriate, legislation will need to be rewritten.
- Developing forest lands and implementing modern forest management practices after long neglect requires monetary investment. Indian communities do not possess the required capital, and accordingly, require initial external financial support if the Indian forestry sector is to be properly developed. However, given the proper support and capital, a full return on investment can be anticipated.
- The program will emphasize and provide for an increasing number of Indians educated and trained in forestry.
- Training will be defined by, and address the needs of, Indian First Nation governments with respect to community based development.
- Training will be delivered under the jurisdiction of Indian First Nation governments.
- Access to technical forestry expertise is critical for the inventorying of Indian forests, the development of viable integrated forest management plans, and the implementation and maintenance of intensive forest management practices on Indian forest lands. The availability of these services on a timely basis will be critical, particularly in the first years of the program, before the full impact of the training and education initiatives have been realized. The Indian controlled and managed forestry sector will need the pooling of resources which can be achieved through collective regional local Indian institutions. Such a collective approach will likely include a broad range of activities, such as marketing, distribution, product development, business development, capital financing, and training services.
- Forest development activities are designed to increase the value and quantity of sustainable harvests through:
 - Improved forest protection.
 - Continuous forest tending.
 - Prompt reforestation.
 - Improved timber utilization.
 - Efficient management and processing techniques.
 - Increased forest land area through afforestation.
- For purposes of describing forest development activities, we have categorized them, at the local and regional levels, as follows:
 - (1) Inventories, Management and Operational Plans.
 - (2) Forest Renewal Operations.
 - (3) Road Access Development.
- These activities are further supplemented at a higher level for aggregation with:
 1. Research and Development.
 2. Demonstration Projects. (end of quote)

Summary of Working Groups Recommendations

The Working Group's main recommendations to the Federal Cabinet for implementing the program may be

summarized:

- (1) Indian control of administration and implementation,
- (2) negotiation of a Canada AFN bilateral forestry development agreement to establish funding, support and performance levels for the program,
- (3) immediate implementation of an interim (1 to 1 1/2 years) forest management program through a joint AFN/CFS/INAC management committee with something like \$25 million in funding,
- (4) \$374 million in total funding over ten years,
- (5) revision of the Indian Timber Regulations.

Work envisioned Within the Program

I would now like to outline the forestry work to be done under the program and describe some of the tangible benefits that would accrue as a result.

Under the proposal, inventories and comprehensive forest management plans would be completed for over 800,000 ha. Other main program components include rehabilitation of denuded forest lands on approximately 75,000 ha, spacing of juvenile forests on 70,000 ha, weeding/brush control on 35,000 ha and commercial and pre-commercial thinning, and release on another 110,000 ha. The proposal also covers items such as purchase of planting stock, access roads construction, fire protection. The aim of the proposal is to achieve these objectives over a ten year period at an estimated annual cost averaging around twenty million dollars. Completion of this work would bring the bulk of productive Indian reserve forests under intensive, sustained yield management and into an economically self-sustaining condition.

In addition to the direct forestry activities, the program included within it a major training and education component, establishment of Indian institutions, secretariats, and other peripherals at an estimated total cost of between \$150 and \$175 million over ten years. Thus the total financial expenditures will approach \$375 million for the complete package as presented in the AFN/INAC/CFS proposal.

The current estimated Annual Allowable Cut (AAC) from the lands included in the program total approximately 1.1 million m³, of which about 0.6 million m³ are harvested annually. It is expected that not all of the total AAC is readily marketable, particularly in the prairie provinces where much of the potential cut is in species that currently have poor market prospects (e.g. aspen). Assuming that only 75 percent of the total AAC is marketable, the current level of sustainable harvest could be around 825,000 m³, or an increase of some 220,000 m³ over the above noted current harvest level. In terms of monetary returns, this increase represents approximately seven million dollars in gross log sales revenue each year and would be available very quickly following implementation of a comprehensive forestry program.

Estimates also suggest that the improvements accruing to the forest land base, if the proposed forest renewal treatments were fully implemented, would allow a relatively quick increase in the annual allowable cut by another 400,000 m³. Assuming a twenty percent reduction due to such factors as local unmerchantability of certain species, this would allow a total annual harvest of 1.2 million m³, or roughly double the current cut level. Revenue from this increase in harvest would average around twenty million dollars annually (in constant 1984 dollars). In other words, the program will have produced new income equal to the original investment in about twenty

years, assuming that not all increases due to the allowable cut effect are realized until the end of the initial ten year implementation period. By the end of one rotation period, continued intensive forestry practices can gradually increase the yield twofold over what is currently sustainable. This, along with the above mentioned near term gains, would set the eventual sustainable yield at between 2.5 to 3.0 million m³ per year or four or five times that which is presently being harvested from these lands.

Job creation is another main benefit of the program. It is estimated that to complete the ten year forest rehabilitation will require 9,000 to 9,500 person-years of work. In addition, *permanent* industrial jobs resulting from the improved productivity of the resource would increase by over 1,200. All these represent direct employment which does not include any of the peripheral and secondary jobs that will inevitably result. It is usually estimated that two indirect jobs result from every one direct job in forestry. It is expected that initially Indian people will not be involved in all aspects of induced secondary development. Therefore, a more appropriate estimate of indirect jobs accruing immediately to the Indian communities is one such job for each direct forestry job.

It also should be noted that the cost of the AFN program compares favourably with other recent federal job creation programs and could be justified purely on the grounds of job creation without reference to its primary purpose and benefits. Improved timber quality and quantity, better management, and enhancement of other renewable resources all add to the attractiveness of this proposal. It should also be noted that these figures only apply to the forest management and rehabilitation phases of the proposed program. The other phases will add many more jobs and benefits to this tally.

Progress to Date

Now a word about the progress towards getting this joint AFN/INAC/CFS proposal implemented. In May the proposal was taken before a committee of senior deputy ministers for review under the joint sponsorship of the Honourable Charles C. Caccia, Minister of the Environment, and the Honourable John Munro, Minister of Indian and Northern Affairs. That committee outlined a number of ways to strengthen the proposal and agreed with the principles and objectives, but could not identify any available extra funding in the amount required. The impending federal election has stalled any further high level consideration, but the proposal has been revised in preparation for presentation to the new Cabinet in September or October. The idea will be to:

1. Seek approval in principle of the proposed program and funding level.
2. Seek permission to start negotiating a Canada-Indian First Nations forestry agreement.
3. Request interim financing to start the program under a joint AFN/INAC/CFS management committee.
4. Identify existing federal funding programs that have an Indian forestry component (such as Special ARDA, Environment 2000, Canada Indian Summer, CEIC projects, etc., etc.) and exercise control over how these funds are spent on forestry projects. The AFN itself is working on this latter point already.

From a CFS point of view, the following are some of the key points we would be looking for in negotiating a Canada Indian First Nations forestry agreement:

- Full technical and financial support from the Federal

Government.

- Program implementation at the community level.
- Variable administration organizations as determined by the Indian People (First Nations) themselves.
- Accountability to the Indian people.
- Accountability to the Federal Government.
- Self-determination (control of administration of the forestry program) by the Indian People.
- Full Indian involvement in all processes and at all levels of program planning, administration and management.
- Phase in of the program (i.e. let it evolve).

Summary

The implementation of this proposed program would provide Indian people with a comprehensive and intensive forest land management program (with attendant infrastructure) which would generate immense and overdue social, economic and environmental benefits for Canada's Native people. The benefits that could be generated for Indian people greatly exceed what has been generated in other resource development programs that have been envisioned thus far. The proposed program has been developed under Indian leadership, but in a highly cooperative manner with two federal departments. We in the Federal Government, the Native people, and forestry managers can make this proposal a reality by encouraging the government to make forestry a priority for Indian development in Canada. It will happen, the questions are when we will start and how big it will be.

The Tanizul Timber Company Ltd.

by

Ed John

President, Tanizul Timber
Prince George, Canada

Tanizul Timber

The Tanizul Timber Company Limited is a small operation with a small budget, that is wholly owned by the Stuart Trembleur Band. The ownership is exercised through a trust arrangement, with six shareholders, all of whom are members of the Band.

Tanizul Timber was incorporated in 1981. The main reason for formally establishing a corporate entity was the uncertainty with respect to provincial tenure policy. Under the provisions of the Indian Act, a band could not obtain tenure. Although you might argue with such a policy, that was the situation. In any event, the policy has recently been changed so that bands now can apply for and receive timber tenure.

Tanizul's head office is located in Tache, the Band's main village. The area of operation is Tree Farm License (TFL) 42, which is adjacent to the main village. The Company's operations include an annual allowable cut (AAC) of 120,000 m³, log marketing, harvesting through contractors and reforestation. The Company employs private contractors and about 50 to 60 people, most of who are our own people.

Tanizul is in its second year of operations. Its total income during the first year was two million dollars of which it netted \$3,500. During the second year the total income was \$4.5 million with a net earnings of \$358,800. The management of the Company comprises of the six board members already mentioned above. The staff includes an office manager, an accountant, forest techni-

cians, support staff and forest engineering (which is contracted out). Things have not always been like this. It may not be what you would consider a big deal, but it is a far cry from what we were.

The Stuart-Trembleur Band (1960s)

The Band population was approximately 1,000 people, living in five villages. The nearest town is roughly 40 miles from the main village. The generally isolated nature of our villages has resulted in a fair amount of independence among our people, who have a penchant for doing our "own thing." The Band employs numerous people on its own. In education we employ teacher aides, language teachers, drug and alcohol counsellors. This process of building and strengthening our communities (our people) appears to have worked well (the process has not been much different from other Indian bands in the Province). However, we have been tested. For example, during the late 1960s, B.C. Rail (the B.C. Government) built a railway in our backyard — through seven reserves. This made us downright mad.

Before turning to the 1970s, it should be emphasized that the Stuart-Trembleur Band did not have extensive financial resources, but like other bands in the Province we have worked hard, stuck to some basic principles and have some views about self-determination which has resulted in giving us hope for the future.

The Concept and Plan (1970s)

There was much discussion about self-determination amongst our people. We recognized the need to obtain some form of independence from the overbearing outside forces. Unfortunately, our efforts for independence resulted in a considerable amount of talk without action and considerable frustration. We knew we had to do it for ourselves, and this being the case, had to canvass the alternatives. We explored the usual possibilities such as trailer parks or marine developments, and decided to focus on the forest resource. The logic of this choice flowed from the fact that we had abundant forest resources right on our doorstep. Non-Indian companies were logging in our backyard and yet provided little or no employment for our people. We wanted to change this.

The Process (1970s)

Having decided to focus on the forest resource, the next problem was to determine how to proceed. The first step was to have a series of extensive discussions with the provincial Ministry of Forests (MOF) with regard to our ideas. Initially there was resistance, due to our lack of experience and funding, but we kept on pushing. We moved up the hierarchy to the politicians (i.e. Minister of Forests and the Minister in charge of Native Affairs). At about the same time, we retained the services of a forestry engineering consulting firm in Victoria to assist us in the preliminary development and assessment of our plan.

This initial work prepared us, so that by the time the MOF decided to consider putting up a TFL in the area now referred to as TFL 42, the Band was sufficiently versed in

the timber resource industry to hold its own. With financial assistance from the Department of Indian Affairs, we had laid the groundwork which provided us with an opportunity to compete for right of tenure.

Application for TFL (Preparation and Submission — 1980s)

In the spring of 1982, the Minister of Forests invited the public to make application for the right of tenure to TFL 42. As noted above, we had done some important preliminary groundwork, but now we had to put together a fairly extensive and fairly technical application, if we were to achieve success. We still had limited access to funding, so the next thing was to acquire some financial assistance. We applied to Special ARDA¹ for funding and received a total of \$96,000: \$30,800 bonus bid and \$66,500 for cost application. The B.C. Government provided another approximately five thousand dollars to prepare a five year forestry forecast (mainly for accounting).

With this we hired T.M. Thomson and Associates to help us with forestry and engineering issues and to prepare an application. The Forest Act outlines in general terms what is required in a TFL application. The focus of our application was in the social and economic benefits that could be produced. The funding, the work of T.M. Thomson and Band's involvement at every stage of the process, gave us the opportunity to compete with the other two companies that applied.

Public Hearing for TFL Applications

Originally the public hearings were set for Prince George, but as a result of our lobbying MOF agreed to change the venue. The hearings were subsequently held in Fort St. James in September, 1982. These were the first TFL public hearings under the new Forest Act; the first such hearings in sixteen years in B.C. Thus, there was considerable public interest. All three applicants presented their positions and their proposed plans for the TFL. Although our application² received support from many groups, both locally and provincially, our application by comparison faced three major problems. The other two applicants had considerable experience in managing a forest license or TFL. They had considerable resources. They both had experienced personnel. One company had five million dollars worth of unencumbered assets. The other, a multinational subsidiary, had even more extensive holdings. In contrast, Tanizul Timber was only a shell. The total equity was six dollars held by the six directors. Tanizul had a John Deere backhoe, and one secondhand gravel truck used for hauling garbage and which was broken down 80 percent of the time. We had no experienced personnel and no past experience in managing a forest license. Harvesting the timber would be no problem as we, of course, had the ability to purchase assets if only we had the funds. However, as can be seen, we were up against some difficult odds. What we did have was a vision and a plan. Our plan was to use the wealth of the two others to our advantage: "the rich get richer."

The one thing we did have was a land base in the vicinity of the TFL, which the other companies did not. Our intention, included in the proposal, was to upgrade the timber on the reserve lands and include them in the TFL for management purposes. However, this also was a problem. Indian reserve lands are governed by the Indian Act. The provisions under the Act are severely limiting and would hamper our ability to include reserve land in the TFL. As a result we applied to the Federal Government to draft regulations that would apply only to our Band. After consid-

¹ Special ARDA is a special funding mechanism established by agreement between the federal and provincial governments to help Indian people improve their economic circumstances. The Canadian Federal Government provides 94 percent of the funding.

² Copies of our application are available through MOF or T.M. Thomson and Associates, Victoria. The terms and conditions of TFL 42, as laid out by the MOF, are for us to log and market the timbers using existing infrastructure. The period of tenure is for 25 years at an AAC of 120,000 m³ with appraisal allowances.

erable time and lobbying, the regulations were brought forth that provided our Band with special timbers tenure. In early February 1982, we received a telephone call from the MOF Minister indicating that TFL 42 was awarded to Tanizul. In April 1982, provincial TFL 42 and the federal timber license were executed in our village. The terms and conditions of TFL 42, as laid out by the MOF, are for us to log and market the timbers using existing infrastructure. The period of tenure is for 25 years at an AAC of 120,000 m³ with appraisal allowances.

Start-up Operations

We commenced with a five year management and work plan, required under the provisions of the Forest Act, in order to proceed with harvesting in the interior. A number of timber sale licenses were negotiated with MOF. Because we needed a cash flow, we received assistance from MOF. In the summer of 1982, we hired a Registered Professional Forester (RPF), a wood foreman, and support staff. Finally, we sold what timbers we had, hired contractors and commenced operation.

Management Philosophy and Present Operations

The key to establishing a good and viable operation is having good personnel. We have built our operation around an RPF and an accountant, with a clear division of responsibilities between and among those involved in the Company. The Board is responsible for policy decisions. The decisions of the Board are limited to the financial aspects of the Company, although a "hands on approach" is maintained for all expenditures. All purchases and expenditures must be authorized through the Board. The management personnel are responsible for the day-to-day administration of contracts, harvesting, hauling, forestry, and engineering.

At present we do not purchase equipment. Although we have some, it is limited. Any money made is put back into the Company to develop roads (which costs about \$30,000 a mile) and to maintain them. Maintenance is a problem but we have no choice. Although we currently contract out all phases of harvesting, forestry, and engineering, as well as roads and landings development, we are training our people in all phases of the operation. Our longer term view is for our people to manage and operate all aspects of the business.

About 75 percent of our total value output goes to one buyer. We negotiated a five year sales agreement. The agreement was negotiated on a rising market which has resulted in our receiving a good price. We are working on establishing credibility and a good reputation for volume delivery of good quality logs. We obtain money to finance our operation through the revenue from log sales, government grants, private lending institutions, through road building, and reforestation (provided under the provision of Section 88 of the Forest Act). The Band also has provided \$90,000. While we are not entirely out of the — can we say — woods, we are headed in the right direction and the future looks promising.

The Future

We recognize that the future of our Company, and the ability of our Band to use the Company for the general good of our people, depends on the ability to develop for the future. We have what we consider a sound management philosophy, and we are building for the future. In process now, are plans for building a mill and increasing

our timber quota. With this, and good planning, we hope to solidify our Company and go on to bigger and better things.

Caribou Indian Enterprises

by

Jim Cooper, President
Caribou Indian Enterprises
Williams Lake, Canada

Caribou Indian Enterprises (CIE) is a small Company, that was established in the 1960s to harvest and manage the timber on band reserves and on a large local federal property owned by the Department of National Defense (DND). The purpose of the Company is to create jobs and regulate and improve harvesting practices on the timber lands operated by the Company. CIE is owned and operated by fifteen bands in the Caribou region of British Columbia. It is a positive example of Indian forestry at the multi-band level.

CIE has five directors, all of whom are appointed by the bands, which meet once a month. The Company has never received any government financing. The DND property, on which CIE operates, has an annual allowable cut of 32,000 m³. However, CIE is cutting at eight to ten times that rate in order to salvage the dead or dying timbers from bark beetle attack. The beetle attack has thrown out any attempts at planning for sustained yield harvesting. Harvest areas and lands are determined by the bark beetle, and over the past years, an operating schedule that was designed to clean up the mess (50,000 ha) left by logging contractors.

CIE operates on the DND property under a Forest License administered by the B.C. Ministry of Forests (MOF). Because the MOF is reluctant to spend money on federally owned lands, and because of overcutting to keep up with the bark beetle, the DND property is poorly managed. No forest renewal funding is forthcoming from CIE stumpages paid to the Province. Thus, CIE's timber is being depleted despite the fact that its harvesting, utilization, and clean up practices are exemplary.

It has also been pointed out, that the Forest License was negotiated by the Department of Indian and Northern Affairs and the Province without input from CIE. CIE has a court case pending with the Province in an effort to get some, or all, of the three million dollars paid so far in stumpage put back into forest renewal.

At present CIE is attempting to diversify its operations. It recently acquired a three year Timber Sale License for outside the DND property. CIE recently bought a ranch. Joint ventures and retail operations are being looked at. A sawmill or chipper would benefit both jobs and profit, but DND prohibits such operation on its land.

To remain viable as a forestry company, CIE would like to acquire a Tree Farm License from the DND property that would include, possibly, adjoining provincial lands. Federal involvement is looked upon as a way to get stumpage put into forest renewal.

In closing, I would like to summarize our present position by saying that CIE will make a small profit this year as it did last year. But the future is bleak unless forest renewal is started, further timber is acquired, and the bark beetle infestation is abated. It is only in this way that long-range planning can be initiated which will result in better forest management and ensure a viable long-term future.

SECTION II

Training and Development of Native People for the Forest Industry

CHAIRMAN/MODERATOR:

Sandy McGechan,
Program Director,
Diploma Program,
Centre for Continuing Education
University of British Columbia,
Vancouver, B.C.

RECORDER:

Jennifer Parkinson,
District Forester,
Department of Indian and Northern Affairs,
Prince George, Canada

NATIVE REPRESENTATIVE:

Robert Guerin,
Executive Director,
Indian Training and Research Centre,
Vancouver, Canada

GOVERNMENT REPRESENTATIVE:

Dick Caswell,
Canada Employment and Immigration Commission,
Vancouver, Canada

PRIVATE SECTOR REPRESENTATIVES:

Tony Shebbeare,
Vice President,
Forest and Environment Division,
Council of Forest Industries,
Vancouver, Canada.

Dan Hanuse,
Independent Logger and Director,
Truck Loggers Association,
Burnaby, Canada.

Fortunado Pacdos-Rivera,
President,
International Forest Search,
Prince Albert, Canada.

International Forest Search Ltd.

by

Fortunado Pacdos-Rivera
President, International Forest Search
Prince Albert, Canada

Our Company has been involved with a Native forestry Program in the Montreal Lakes area of Saskatchewan. The forestry Program includes twenty projects on twenty different reserves. The objective of the Program is to alleviate chronic unemployment in the area through the implementation of a comprehensive intensive forestry management program, which at the same time, would enhance the productivity of the resource.

The Program, which was conceived in 1981, will employ about 25 full-time people. It is presently funded by the CEIC through its various employment programs and Special ARDA.

The Program will operate using the guidelines of the Assembly of First Nations, which as you will recall includes intensive forest management. The integrated use of forest resources helps to facilitate community-based operations, and greater Indian control. Careful attention will be paid to Native cultural and spiritual considerations.

In the preliminary stages of the Program we have followed a systematic series of development phases to ensure long-term success. Included in this are *options identification*. This involves consultations with a band council on training in silviculture, harvesting, and production. *Long-term planning* which includes conducting a forest inventory, preparing both a twenty year management plan and a five year action plan. The *training and testing* of our training efforts is an intricate part of this overall approach. We are providing vocational, supervisory and management training so that all phases of the operations will have skilled Native employees.

In implementing all of this we are paying particular attention to the preparation of a forest management plan. The intention is to prepare a plan that will result in a first quality forest base that will benefit those living in the area for many years to come. Most importantly, therefore, is that Native people are doing much of the work. Particularly, the field work as part of our training efforts.

We have for example, tested the training and found it effective. All supervisors received the same training as the workers in addition to their own supervisory training. Managers were given special training that includes an emphasis on money management. Safety has been stressed as part of this training.

Our emphasis on training during the initial phases of the Program has resulted in some forestry work that is of questionable value. Particularly when this work is examined in terms of generating an optimal return on investment. However, some of our forest stands are past optimum age of release. Our basic philosophy is to improve the forest and to provide jobs. We feel that this will lead to very large future dividends. In terms of human welfare, in improving our forest base and ensuring that Indian people play a greater role in forestry in future, our efforts have been a success.

Summary

The efforts of the Company, provide a good example of a long-term training program which is based on practical opportunity. It demonstrates that long-term employment can be provided using a forest land base as the main vehicle for success. The training and the Program itself has been successful since first established by the band. Much of this success is the result of developing a system that stimulates mutual trust. There is trust and a commitment to success. Consultants have provided advice, INAC has provided a forester, and the Native people themselves have shown initiative and commitment to long-term success.

Indian Training and Research Institute

by

Robert Guerin
Indian Training and Research Institute
Vancouver, Canada

The Indian Training and Research Institute is an organization formed by a group of bands that is designed to:

1. Train Native workers.
2. Assist bands identify and assess their own training needs.
3. Provide bands with assistance in training managers.
4. Help bands run their own training programs.

The Indian Training Institute has gained a great deal of experience in Native training. This training can be categorized under three different headings. These are: (1) academic training, (2) general or generic skill training, and (3) training in specialized skills.

The success of any Native training program depends on regular consultation with bands and tribal councils to determine the training requirements. It is necessary to determine how Indians perceive their involvement in the training and in the vocation in which they are to participate. Finally, the people themselves have to be involved in every phase of the process so that there is total awareness of the full range of opportunities that are available.

When applied to the forest industry, this implies that it is necessary to take a marketing approach to determine what opportunities are available for Native people. It implies that there is a need to develop a realistic view of the industry in order to determine why and how Natives should become involved. The forest industry requires high capital investment and produces a generally low rate of return. It may not be the best type of industry for Native people. However, a consultation approach is necessary. Such an approach requires that a full examination be carried out to assess the desirability and feasibility of having greater Native participation in forestry.

Summary

Native groups must look for opportunities in the forest industry. They must pay particular attention to the current state of forestry and the industries involved. A consultative process should be undertaken to determine how Natives perceive this participation and assess the type of training that is required in forestry to realize Native expectations.

Training and Development of Native People for the Forest Industry

by

Dick Caswell
Employment and Immigration Canada
Vancouver, Canada

The objectives of Employment and Immigration Canada (CEIC) are to:

- (1) help build a good quality labour force,
- (2) develop an economy that serves the needs of the Canadian people,
- (3) provide equity of opportunity among Canadians.

Training

The type of training available through CEIC covers all aspects of labour force development. CEIC provides assistance for institutional training through formal schooling; it provides industrial training, both in class and on-the-job, through employers.

The institutional training involves the department buying spaces in specific courses for clients to assist them in obtaining the necessary skills to gain or maintain employment. The direct assistance available includes payment of course costs in full, an allowance or unemployment insurance depending on which is greater, dependent care, and a commuting allowance if necessary. A client can receive 30 hours a week up to 52 weeks of institutional training.

The industrial training available provides for specific training either in the classroom or on-the-job through employers to increase employee skills in general industrial activities. Under the provisions of this Program, a client can receive specific vocational preparation in medium to high skill occupations with transferable skills. This includes the retraining of workers affected by new technologies in order to prevent layoffs, also the training of women in non-traditional occupations. Further, it provides training for special needs clients who have difficulty getting jobs. Under this Program a client can receive 100 percent of their wages up to a maximum of 350 dollars per week. One hundred percent of training costs and 75 percent of course costs are provided. The duration of this training has to be greater than one week and less than one year.

Under the heading of industrial training there is also what is referred to as critical Trade Skills Training. Activities funded through this include only nationally designated occupations. The financial assistance available is the same as for other industrial training noted above, but the duration can go up to two years. In addition to training, the CEIC provides manpower a consultative service. The purpose of this is to assist both the employees and the employers in dealing with those human resource problems that are associated with changes in work force requirements. The method used is to establish a committee with employee, employer, and CEIC representation. The committee as a group, identifies the problem and establishes a course of action for resolution of the problems. The corrective actions usually include measures to improve resource planning, reduce employee turnover and dissatisfaction, or efforts to improve employee mobility. The CEIC will provide 50 percent of the costs for consultations up to a total of \$100,000 for a period not to exceed one year (although extensions can be arranged). If assistance is provided to a non-profit organization, and the total cost is less than \$20,000, then CEIC will pay 100 percent of the costs.

Another new activity being considered (but not available yet) in our Labour Market Service is the administration of a work-sharing program. The intended purpose is to assist firms retain employees threatened with layoff. As envisioned at the moment, an employee threatened with layoff could be kept on staff with some help by CEIC in the form of unemployment insurance benefits and their regular wage for hours worked. The duration of assistance would be from six to 50 weeks.

As part of our Employment Development Services Program, CEIC conducts a number of activities that are designed to help both employers and employees to overcome labour market anomalies. The strict requirement of the

Employment Development Program is to avoid creating dependency on government and creating unfair competition in the private sector. Very briefly the activities conducted in the Program are as follows:

a) Canada Works

Purpose: To promote economic recovery for long-range development, and improve community assets.

Finance: CEIC will provide up to \$325 per week, and cover up to \$100,000 of some non-wage costs, if such costs are matched dollar for dollar by the employer.

Duration: The period for assistance is from twelve to 52 weeks prior to March 31, 1985.

Requirements: Priority must be given to those unemployed for more than eight weeks with a minimum employee requirement of three.

b) Summer Canada

Purpose: To provide practical work experiences for students that will benefit the community.

Finance: CEIC will provide up to \$220 per week, the project manager's wages, and up to \$35 per week for other costs to a maximum of \$50,000.

Duration: Six to eighteen weeks.

Requirements: Three employees or more.

c) Local Employment and Assistance Development (LEAD)

Purpose: To help smaller communities with employment problems.

Finance: CEIC will provide up to \$350,000 for a project and up to \$50,000 for planning the project.

Duration: One year for planning and up to five years for the project.

d) Job Corps

Purpose: To help employ the disadvantaged.

Finance: Up to \$350,000 for the operations phase and up to \$50,000 for development.

Duration: Up to three years.

e) Career Access

Purpose: To stimulate and create employment opportunities for inexperienced, disabled or disadvantaged.

Summary

The one-windowed approach which allows clients to approach any Employment Development office for access to programs has been important in improving services to clients. Individuals or employers seeking assistance through CEIC programs should contact the CEIC Employment Development Branch district office in their area. District Advisory Boards, with Native representation, determine the allocation of program funds. Worthwhile training programs can be requested by bands, but such requests have to be approved by the Advisory Boards.

Program officers located in the District Employment Development Branches will:

- (1) Inform you of specific details and the regulations associated with each program.
- (2) Help you identify the best program to meet your individual needs.
- (3) Assist you in completing the necessary forms which may be required.

Training and Development of Native People on the Forest Industry

by

R.A. (Tony) Shebbeare
Vice President

Forests and Environment
Council of Forest Industries of British Columbia
Vancouver, Canada

In my remarks here today, I will first of all provide a couple of Native training and development success stories. Second, I will provide a perspective on Native training. Third, I will outline some of the changes that are required if Natives are to share more fully in the employment opportunities available within the forest industry.

Babine Forest Products

Babine Forest Products is a B.C. company, that in terms of Native participation has been an outstanding success. The Company is about ten percent Indian owned. The amount of Indian employment in the Company has increased overtime. Indians work as tradespeople in many key operational jobs. Indian people work together on a shift that competes to out produce other shifts. The shifts are set up so that husbands and wives work separately so that one parent is always at home to look after the children. Indian workers are treated and are trusted equally with non-Indian workers. Indian workers receive the same rewards as other non-Indian workers, but are as well, subject to the same workplace discipline. For example, if a worker is continually late he or she is subject to the same discipline whether Indian or non-Indian.

The experience within the Company has been, that although many Native employees lack academic training, they also have good physical skills. Success has been good because care is taken to ensure that employees understand what they are expected to achieve. One Indian is employed in the Industrial Relations Office to assist Indian workers to understand the posting system and the union agreement. This has resulted in what is considered good communications. Indian employees also are assisted or trained in personal finances — the need to make money and how to budget so that the money lasts between pay cheques.

Despite the overall success, there have been some problems. One of these is tax deductions. Many of the seasonal Native employees do not earn enough to pay taxes. The Company prefers however, to deduct taxes and have tax returns paid directly to the individual. There is as well, the need to have greater equality of employment among the Indians from the five different bands that depend on the Company for employment. This does raise some problems when the opportunity for employment is based strictly on merit. Some problems as a result of alcohol have arisen. The standard approach used is no employment for three months after which the employee is rehired, thus providing them with an opportunity to reform. Another problem has been the sharing within the Indian community of pay cheques. This often results in celebrations that has those working trying to sleep between shifts, while others are keeping them awake partying.

Westar Sawmills

Another success story is that of Westar Sawmills. The

sawmill is located on a reserve near Hazelton. It is owned by a major B.C. firm. The mill employs between 60 and 65 percent Indian people. These people work as superintendents, millwrights, and production foremen. Some also are taking trades training.

The experience at Westar Sawmills, similar to that at Babine Forest Products, is that despite a lack of academic training, the Indian people have demonstrated good skills. Training must be through practical demonstration such as a "show and tell" routine. The incentive to the individual to improve and to train is through the deliberate progression of the individual to higher skilled and better paying jobs as they progress as a result of the on-the-job training.

The problems experienced at Westar Sawmills usually are the result of attendance. Fever among younger individuals is frequent because they tire more quickly. Alcohol is a problem. The mill employs a counsellor to assist the individual overcome such personal problems. Finally, there has been some culturally related problems as a result of the difference in approach taken by the Native workers as opposed to the non-Native worker. Native employees do not react quickly to new approaches. They are quick observers rather than aggressive reactors to change.

The success of Westar as an employer of Indian people has been good. It is necessary for the employer to have patience and understand the different approach that Native people have to particular situations. It is important to be consistent, fair and to provide encouragement. It is crucial to treat all employees equally.

A Perspective on Training

From an industry perspective it is important to understand that Native youth, like their non-Native counterparts, are subject to a variety of influences. Much depends on where and how they were raised. Reservation children usually are much closer to traditional values in lifestyle and work than are children who are raised off reservations. Urban Native children are often torn between the traditional values found on reservations and those found in the cosmopolitan environment. Many Indian students are at a disadvantage from an early age because formal schooling is not valued within their communities. Parents want their children to be successful, but at the same time, see schools as the "white" culture's attempt to destroy Indian culture. This problem is further exacerbated by the situation where Indian children frequently enter grade one with poor English skills, shyness, and a fear that inhibits social ease and academic success. Moreover, Indian students have to cope with an awareness of the separation between the values at home and those they encounter in school.

Within the forest industry there remains considerable opportunity for the young Indian entering the work force. Those children brought up in a rural setting (Kitwanga, Fort St. John and northern Vancouver Island), who may lack formal training for any of a variety of reasons, often are able to find employment in the forest industry through direct entry access on the green chain, or as setting chokers. This can be done without having to face a mountain of academic prerequisites. Those who are interested and with some academic credentials also can avail themselves of training through community colleges or through government training programs.

A follow-up study undertaken at the Regina Plains College indicates that the problems facing those seeking further training are substantial. Following up on a pretrades

training course for women, carried out during the period 1979 to 1983, showed that of the 103 women starting the Program only nineteen left before completion. Of the nineteen leaving, fifteen were Native. The reasons cited were poor attendance, lack of participation and loss of interest. The major problems indicated were lack of personal and social support for the individual's endeavours, poor academic background, insufficient work experience.

The problems are not, however, within the Native community alone, as attested by CEIC in their Native Internship Program, which provides summer experience for young people.

Summary

We may summarize this perspective on training by pointing out there are numerous ways to become involved in the forest industry. The forest industry hires professionals with university degrees, has technical employees who are trained in technical schools, hires individual tradesmen educated in vocational schools, and employs many through direct entry. Most Native Canadians are employed in the forest industry in direct entry jobs. The reasons for this are:

1. Lack of academic prerequisites for training.
2. Lack of social skills, confidence, and poor incentive for self-improvement.
3. Social isolation because of rural residence or living on reservations.
4. Lack of Indian role models in higher skilled occupations.
5. Conflict experience because of different cultural perspectives on what is valuable in terms of work skills and lifestyles.
6. Inexperience with modern technology.

The overall result is that when Native Canadians are employed in the forest industry, they are employed in lower level jobs. They are most vulnerable to job obsolescence, due to changing technology.

The prospects for the future are not encouraging when trends within the industry are compared with the situation that prevails within the Native community. The forest industry is experiencing a steadily diminishing decline in the number of unskilled jobs. Native youth often leave school before graduation for a variety of reasons. In order to compete within the industry there is increasing emphasis on specialists with individual technical skills (computers, resource specialists). Yet Native people often have an inadequate command of communication skills and math. The need for specific individual skills within the industry involves increasingly working in an indoors environment on word processors and computers. Natives are more often skilled as individuals in hand crafts or in working in the outdoors environment, but not indoors on computers. Skilled trades training require a minimum of grade twelve. The Native person, tied emotionally and financially to a reservation often has trouble meeting this basic requirement. The work force in general requires flexibility and the willingness to move. Native people, faced with the prospect of moving, most often choose to live in settings close to their people and traditional home. Finally, the Native cultural people's values are not always consistent with the behavioural patterns that are considered necessary for successful business management.

What is needed

1. Government and educational institutions have to con-

tinue to support Native training programs, so that young Natives have sufficient opportunities to compete for jobs within the industry.

2. Native people themselves have to ensure that young people have the academic and practical skills necessary to ensure access to job training, and ultimately, to sustained meaningful employment.
3. All Canadians have to work with government and industry to ensure that we have a multicultural Canadian society which encourages individual initiative and entrepreneurial skills among Native people.
4. Native Canadians have to prepare themselves by developing business management skills to operate businesses, and act as employers. This is particularly important as a result of the pending Land Claims settlements.
5. Native Canadians have to be encouraged to maintain their cultural identities while functioning in a multicultural economic and social system.

SECTION III

Financing Native Forestry Activities

CHAIRMAN/MODERATOR:

Earl Smith,
President,
Hecate Logging Ltd.,
Vancouver, Canada

RECORDER:

David Walkem,
Project Analyst,
Native Economic Development
Program,
Department of Regional Industrial Development,
Vancouver, Canada

NATIVE AND PRIVATE SECTOR REPRESENTATIVE:

Earl Smith

GOVERNMENT REPRESENTATIVE:

David Walkem

Financing Native Forest Activities

by

Earl Smith
President
Hecate Logging Ltd.
Vancouver, Canada

First of all I would like to express my disappointment at the lack of active participants at this meeting. I expected there to be more Natives, and as such, have directed my talk more to them. My theme for this part of the program is "The Importance of Developing a Working Relationship with Funding Agencies."

In order to operate a successful business it has been my experience that one of the most important tasks is to develop a positive working relationship with the various agencies that are used to finance your business. The relationship must be positive with all because a poor relationship with one agency is quickly broadcast to others in the financial community and can hamper your attempts to find financing for your business.



Discussion from the Floor

The way to foster a positive relationship is to practice sound financial management and control over your resources. Having good accountants and competent professionals in your organization is the key to developing successful management control systems essential for the efficient handling of financial resources. A clearly defined policy is also essential to direct management efforts.

Despite the great number of disadvantages faced by Native people in getting into the forest industry, they do have one edge over other individuals, and that is the wider access to government program managers. This one advantage can end up working against you.

The vast number of available government programs, with their different purposes (not always relating well to each other), criterion and application processes can make access to government funding a frustrating, time-consuming, and even futile experience. A good relationship with the various government personnel can smooth out some of the rough spots in accessing government funds.

The relationship developed with your local banker is the key to the day-to-day operation of your business. Having the banker know and understand your needs will make him more sympathetic to your cash flow requirements.

Thus, the three main financing alternatives available to Natives wishing to become involved in the forest industry are government agencies, commercial lenders and private investors. A positive relationship with each of these will help to ensure the financial backing necessary to operate a successful business enterprise.

1. Government Agencies

Examples of government agencies that could get involved in financing Native owned, commercially oriented,

forestry activities are:

- (a) The Department of Indian Affairs (DIA) through its Indian Business Loan Fund.

Objectives

- To provide a source of financial capital for both on and off reserve economic development.
 - To ensure that those Indian people engaged in business have access to the basic managerial, professional, and technical services necessary for the successful operation of their businesses.
 - To help get Indian business people together with relevant sectors of the Canadian business community to make the best of available economic development opportunities.
- Meeting these objectives means increased personal and collective wealth as well as increased employment opportunities.

Who is Eligible

Eligible applicants for loans are Indian individuals, bands, Indian owned corporations or cooperatives, or anyone involved in a business that makes a significant contribution to the economic development of Indian people. Basically, the Fund is available for furthering any business enterprise, excluding those dedicated to charitable, religious, or political purposes.

What is Eligible

Here are some examples of activities eligible for the assistance:

- Resource developments: such as farming, logging or fishing operations, vineyards or fish plants.
- Service businesses: such as hotels, motels, camp grounds, mobile-home parks, laundromats, drive-in theatres or printing.
- Manufacturing: such as boat building, modular home building or ceramics.
- Transportation services: trucking, water transportation or taxi service.
- Small or large retail stores or wholesale businesses.
- Construction industry.

These examples are not intended to be all inclusive. Loans are available for working capital, if required, or for help with the purchase of fixed assets.

Working capital loans would be repayable over a relatively short period while fixed asset purchases can be financed over a maximum of fifteen years.

Loan payments can be arranged on monthly, quarterly, or annual schedules, with skip payments if required.

Types of Loans Available

Direct Loans: are available to all eligible applicants at a rate of interest prevailing when the loan is made. The rate remains fixed until the loan is fully repaid.

Interest rates are adjusted quarterly and are based on the prime lending rates of the commercial banks. This adjustment affects only the new loans, not existing ones.

Collateral security is required and is specified in the Loan Agreement which each applicant must sign. Security forms are prepared for the borrower's approval, at no cost to the borrower. Once documentation is in order, the loan funds are paid out according to the borrower's instructions such as, for example, to a supplier, to creditors, or in other ways which have been agreed.

Guaranteed Loans: are available through the commercial banks or other financial institutions. The eligible applicant is expected to arrange the loan at an institution of

their choice. The lender reviews the application in the normal way, but may require additional security on the basis of Section 89(1) of the Indian Act, which means a guarantee. The lender submits a request for a guarantee to DIA for approval.

The interest rate fluctuates in line with the bank's normal practice and is subject to the agreement of the borrower and lender. The department does not fix the rates of interest on guaranteed loans. Repayment terms and security requirements are to be mutually agreed between the borrower and the bank. The department accepts these conditions when it approves the guarantee. Loan funds could become available as soon as the lender receives the approval. Security documentation is arranged according to the bank's normal procedure and may be subject to a fee. For larger loans, a loan board in Ottawa also considers the request.

Applications for both types of loans are considered by a regional loan board, which usually meets in Vancouver. An DINA business services officer prepares a detailed review for the predominantly Indian board and, among other things, the board looks at these factors:

- The purpose and legal structure of the applicant.
 - The impact on the community.
 - Other sources of financing, including the amount of equity from the applicant.
 - What security is offered.
 - The competence of management (assistance in providing this can be arranged).
 - That experienced workers are available or that training programs are set up.
 - The demand for the product or service.
 - The operating costs and sales based on financial projection, indicating the ability to repay the loan.
 - That normal business practices will be followed.
- (b) The Department of Regional Industrial Expansion (DRIE) in cooperation with the Provincial Ministry of Economic Development offers a program called Assistance to Small Enterprise Programs (ASEP). This Program offers interest free, forgivable loans, for new or existing businesses outside the lower mainland or southern Vancouver Island. The business has to be involved in manufacturing or processing or maintenance to them.
- (c) The Special Agricultural and Rural Development Agreement (ARDA) Program.

A federal-provincial joint initiative, this Program is designed to provide rural residents, primarily of Native ancestry, (status and non-status), with new and better economic opportunities. This also is administered by the Department of Regional and Industrial Expansion (DRIE) and a Special ARDA Committee. The Committee review applications and is made up of representatives of the federal and provincial governments and the Native community.

Eligible projects include those which:

- Involve the establishment, expansion and modernization of business employing significant numbers of Native people.
- Improve the incomes of Native people in agriculture, fishing, forestry, and trapping.
- Provide counselling, training and related services not available under other federal and provincial programs.

Additional assistance may be available for:

- Transportation and communications projects that

help provide access to existing or new job opportunities.

- The development of community recreation or other facilities that can lead to improvement in living conditions in remote rural communities.

For information on Special ARDA, contact:

P.O. Box 49178
11th Floor — Bentall Tower 4
1055 Dunsmuir Street
Vancouver, B.C. V7X 1K6
Telephone: 661-2216

- (d) Employment and Immigration Canada (CEIC) has a number of programs designed to help create jobs and provide for training. Further information on these programs can be obtained by contacting:
Employment and Immigration Canada
Employment Development Branch
3rd Floor — 1080 Hornby Street
Vancouver, B.C. V6Z 1V6
Telephone: 681-1106

- (e) The Federal Business Development Board (FBDB) extends financial assistance to almost every type of new or existing business.

Qualifications for financing are: that investment in the business, by sources other than FBDB, is secure and ensures a commitment to business, and that business may reasonably be expected to prove successful.

FBDB financing is available through loans, loan guarantees, equity financing, leasing, or any combination of these. Businesses may obtain FBDB assistance on more than one occasion, if requirements are met.

The Bank also offers Counselling Assistance to Small Enterprises (CASE) at nominal cost and uses the experience of retired business people as counsellors. Management training seminars are also conducted by the bank and a number of books on small business management are available.

There are nineteen branch offices in B.C. The regional headquarters are at:

900 West Hastings Street
Vancouver, B.C. V6C 1E5
Telephone: 687-1300

- (f) The Native Economic Development Program of the Department of Regional Industrial Expansion, will provide funding to Foster Native economic development. Information on this is included in the next presentation on this program.

2. Commercial Banks

Besides the normal chartered banks two other financial institutions have shown an interest in becoming involved in Native business: Peace Hills Trust and the Northland Bank. Peace Hills Trust is wholly owned by the Damson Band of Hobbema, Alberta and is based out of Edmonton, Alberta. The Northland Bank, and is partially owned (ten percent) by the Westbank Band, which is based in Calgary, Alberta. Mr. Byd McBain heads the Native Banking branch of the Northland Bank.

3. Private Investors

Private investors can be viewed as possible Joint Venture partners. The private investor can bring a wealth of

management expertise as well as financial assets into a business deal. The success of this approach is exemplified by Hecate Logging Limited, which operates a forest license in a joint venture between the Ehattesaht Band and the Coulsen family on Vancouver Island.

The Native Economic Development Program³

by

David Walkem
Project Analyst
Native Economic Development Program
Vancouver, Canada

The Native Economic Development Program (NEDP) was put into operation in April, 1984, and is the latest government program available to Native people. The NEDP is operationed through the Federal Department of Regional Industrial Expansion (DRIE) and is headquartered in Winnipeg. The NEDP has an allocated funding of \$345 million for a four year period ending in 1988. The Program is open to all status and non-status Indians, the Métis and Inuit. A Native controlled Advisory Board oversees the operations of the Program and advises the Minister on which specific proposals merit assistance.

A detailed outline of the Elements, Objectives and eligibility requirements follows:

Objectives

The NEDP was established to assist the development of economic self-reliance among Canada's aboriginal people. All proposals for assistance are judged in relation to the overall objectives of the Program, which are as follows:

- 1) To increase and strengthen aboriginal projects at the community level which have a strong economic focus, increase economic self-reliance and have the potential to be commercially successful.
- 2) To increase the number of Aboriginal enterprises, including financial and economic institutions, which have the potential to be commercially viable and which enhance aboriginal management skills and economic opportunities for aboriginal people.
- 3) To increase the access of aboriginal people to existing economic development resources in the private and public sector.
- 4) To increase the public awareness of the contributions to the Canadian economy made by aboriginal enterprises.

The Program Elements

In order to meet the objectives, the Program has four categories of action:

ELEMENT I Native Financial and Economic Institutions
ELEMENT II Community-Based Economic Development

ELEMENT III Special Projects

ELEMENT IV Coordination

Each of these Elements addresses specific economic development requirements in Canada's Native community. As such, each Element has *specific objectives* which potential applicants should review carefully prior to submitting a proposal.

³ See Bertha Joseph and Brian Payer presentation in Business and Corporate Development section p. 47.

All proposals will be judged on the degree to which they address both the specific objectives of the Program Element under which the request for assistance is being made as well as the overall objectives of the Program.

ELEMENT I: NATIVE ECONOMIC AND FINANCIAL INSTITUTIONS

Specific Objectives

Element I will assist in the building of aboriginal financial and economic institutions by:

- Developing and enhancing capital and equity held by aboriginal controlled and managed financial and economic development institutions and establishing self-sustaining funds owned by aboriginal people.
- Developing and enhancing through these institutions the opportunities for business and investments by aboriginal enterprises throughout Canada.
- Developing and enhancing through these institutions, the number of successful aboriginal enterprises and the level of aboriginal wealth creation.

Eligibility

A national, provincial, regional or community financial or economic institution which:

- is incorporated either federally or provincially,
- is in compliance with all relevant federal or provincial legislation,
- has as an objective set out in the Articles of Incorporation or Letters Patent to assist in further Native business, industry and commercial development, and
- is owned or controlled by Native people to a level which in the opinion of the Minister is acceptable.

Eligible Activities

Contributions may be made to economic or financial institutions for:

- A. Establishing or expanding a program to provide business and advisory services to Native entrepreneurs.
- B. Establishing or expanding a program to provide financial services to Native entrepreneurs. These include:
 - loans
 - loan guarantees
 - bridge financing
 - equity contributions
 - venture capital
 - equity financing
 - other similar financial services to enable Native entrepreneurs to establish, acquire, or expand or modernize a commercial operation
- eligible costs include capitalization costs
- C. Establishing, expanding or modernizing any commercial operation under the ownership or control of the eligible applicant.
- D. Acquiring any commercial operation.

ELEMENT II: COMMUNITY-BASED ECONOMIC DEVELOPMENT

Special Objectives

The Program will assist in the development of community economic self-reliance through contributions to an economic animation process and resultant projects in selected Native communities.

Funded Activities

Representative Native communities from throughout Canada will be selected on the basis of analysis, consultation, and proposals.

Conditions

Contributions may be made if:

- a) The proposed project will contribute to the body of knowledge on how the process of community-based Native economic development can best be supported.
- b) The community involved is unable to take advantage of services:
 - i) offered by a Native economic institution funded by the NEDP,
 - ii) offered by the federal, provincial or territorial governments.

Funded Activities

Contributions may be made for:

- A. economic development planning including the cost of hiring a consultant,
- B. the development of business and management capability,
- C. opportunity analysis,
- D. coordinating and increasing access to other available governmental and non-governmental resources,
- E. proposal development,
- F. meetings and travel directly related to specific economic development activities,
- G. technical and advisory services,
- H. communications,
- I. community animation,
- J. establishing, acquiring, expanding and modernizing a commercial operation that is: i) community-based, ii) the direct result of an animation project, and iii) has the potential to become commercially successful.

ELEMENT III: SPECIAL PROJECTS

Special Objectives

There will be occasions when special opportunities arise which if grasped will have a significant positive impact on Native economic development. Element III is designed so that these projects can be assisted, but only when they are not eligible for other government support or are otherwise unable to take advantage of such programs.

Eligibility

Any individual, association, partnership, cooperative, profit or non-profit corporate body, or other legal entity that is presenting an eligible project is eligible for assistance under Element III.

Conditions

Contributions may be made where:

- a. the project would not be eligible for funding under any other program element of the Native Economic Development Program or any other federal, provincial or territorial government programs, or is otherwise not able to take advantage of such programs;
- b. the project would not be economically viable without financial assistance from NEDP;
- c. the project would not be undertaken without financial assistance from NEDP;
- d. the project would benefit many as opposed to a few individuals.

Funded Activities

The following activities are eligible for assistance.

- A. Scholarships and Special Training

Assistance may be made available for establishing and funding scholarships or specialized training programs aimed at increasing business, technical and applied sci-

entific expertise in the Native community.

B. Product or Process Innovation

The Program may assist the development of demonstration of scientifically or technically feasible new products or production processes which offer a good potential for commercial exploitation by Native people.

C. Marketing

Activities aimed at increasing the marketing of Native products or services may be assisted under the Program including:

- i) the publication and dissemination of catalogues or other literature,
- ii) market research and analysis,
- iii) advertising,
- iv) trade shows, seminars or other similar events.

D. Special Studies

The Program may contribute to studies on Native business issues where the study will have significant and direct benefits for Native economic development.

E. Projects and Enterprises

The Program may contribute to establishing, acquiring, expanding or modernizing a community-based economic development project, or a Native owned and controlled enterprise, or both, where such project or enterprise is of high priority in relation to Native Economic Development Program objectives.

Criteria

In determining the amount of contribution to be provided to an eligible applicant, proposals will be assessed against the following criteria for Element III.

- The objectives and anticipated benefits of the project with respect to overall Native economic development.
- Demonstrated management capacity and expertise of the applicant in relation to the eligible project.
- The potential for business success where applicable.
- The accounting procedures and practices of the applicant.
- The amount of support for the project in the Native community.
- A business plan including:
 - i) the objectives of the project,
 - ii) the proposed activities and expected measurable results,
 - iii) a time-phased and costed work plan,
 - iv) identification of market.
- The relationship of the project to federal government national and regional strategies and priorities.
- The degree to which other sources of funding will become available to the applicant as a result of a contribution by the Program.
- The degree of investment in the project from other sources including applicant equity.

- For projects involving new products or processes, substantiating scientific and feasibility information.

ELEMENT IV: COORDINATION

Special Objectives

Element IV is an activity of the Program that will be used by the Minister and Advisory Board to promote accessibility for Native people to other federal programs and to ensure that those programs are of maximum benefit to Native Enterprise.

Methodology

There are three specific areas of action:

1. Research and Information Dissemination

- Data on government programs will be developed and distributed to Native people so that they can better access those programs.
- New initiatives affecting Native economic development will be analyzed and monitored.
- An improved information flow among different departments will be developed to assist the coordination of programs affecting Native economic development.
- Existing federal policies and programs will be analyzed from the point of view of their impact on Native economic development.

2. Advocacy

- Native economic development opportunities will be brought to the attention of other departments.
- Improved Native opportunities in government will be sought.
- Other departments will be encouraged to become involved in aspects of NEDP activities in order to create effective funding packages.

3. Formal Recommendations

- The NEDP Advisory Board may make formal recommendations to any federal Minister on how programs and policies can be improved in support of Native economic development.

Of the four Elements outlined above, the Element most applicable to forestry activities is Element III — Special projects. Within Element III NEDP may contribute to establishing, acquiring, expanding or modernizing communitybased economic development projects, or a Native owned and controlled enterprise that meets NEDP strategic objectives.

Further details on NEDP can be obtained by contacting:

NEDP
Regional Director, Pacific Region
Bentall Tower IV
1964 — 1055 Dunsmuir Street
P.O. Box 49275
Vancouver, B.C., Canada
V7X 1L3

WORKSHOP DISCUSSION SUMMARY

Forest Resources

SUB-THEME #5

While the discussions and presentations have focused mainly on British Columbia, where the forest industry plays an all important role in the west coast economy, a considerable amount of what has been revealed offers room for optimism for Native people throughout North America. A review of the success stories presented in the workshop indicates that Native people have much to offer in terms of adding to the existing forest base and in commercial development. Tanizal Timber has acquired the first tree farm license issued in more than sixteen years in the Province of British Columbia. Caribou Indian Enterprises has achieved moderate success in bringing together several bands in a logging venture with good opportunity for the future. Hecate Logging Ltd. is operating successfully in joint venture arrangements on Vancouver Island. In Saskatchewan it was seen that International Forest Search has been successful in assisting bands to practice intensive silvicultural management. Thus, the foundation for further Native involvement in Canada's forest industry has been, at least partially, established.

There remains, nonetheless, much to be done if Native progress in ownership and participation in the forest industry is to grow and become more secure. The responsibility for the needed changes does not rest with government alone, with industry alone, or just with the Native people themselves. All three of these, and the Canadian people as a whole, have to play an active role in ensuring that Natives share more fully in both generating opportunities and taking advantage of those that are available.

It can be readily seen that the success stories outlined in the workshop all have had certain common attributes. The first is they all have involved cooperative arrangements among the Native community, government, and the private sector. This is an observation consistent with what has been experienced in the United States. Second, all have emphasized the need for sound financial management and a trained work force. Third, all have served to stress the need to have Native people involved, and play a principal role, in all phases of business operations, including decision-making, setting policy, and in establishing direction for the future.

A considerable amount of experience from within the Native community, from government, and from the private sector has been offered in the discussions. The usefulness of adhering to this advice rests on a number of general themes that must be addressed if Native people are to achieve greater self-reliance. One of these general themes is that it has to be recognized that forestry is only one of the many possibilities that a band should consider for development. Other resource based opportunities should be examined before financial or human resource investments are made. It may be that the resource base available to the people is not sufficient or suitable for establishing a successful long-term operation. The skills and background of the people may be more suitable to other types of development, or the size of the investment relative to the pro-

jected returns, may not be sufficient to warrant a commitment to forestry. Thus, the Native people themselves, in unison with their leaders, have to decide the best way to proceed.

However, once forestry has been identified as the best way to proceed, and the people in general support such a direction, it is absolutely crucial that the entity which is established be operated as a profit making organization. All decisions made by those responsible for operating the enterprise should be based on sound business management. Special welfare concerns should not be allowed to detract from sound business decisions. A business that fails because of unsound business practices, regardless of whether or not such practices are adopted to address social concerns, will not serve the long-range interests of the Native community. Such failures merely make it more difficult for Native people to become successful participants in the industry in the future. Social programs should be administered separately and not as part of a commercial enterprise.

Once forestry is identified as the best way to proceed, and a mechanism has been established for ensuring sound business decisions — as revealed in the workshop — a series of specific steps should be followed. These are:

- i) An assessment of the forest land potential should be undertaken.
- ii) A short and long-term management plan should be developed.
- iii) Long-term funding commitments should be identified and pursued.
- iv) A preliminary review of the skills available, and the training arrangements necessary to provide these skills, should be carried out.
- v) Outside participation should be explored and given serious consideration in terms of the *mutual benefits* that can be enjoyed as a result of such arrangements.

The three ingredients that were identified as most important to the long-range success of a forestry based enterprise are care and tending of the resource, training and financial support, and cooperation among government, industry, and the Native people. In particular with respect to the Native people it is important to establish a good working relationship with those available to help finance the operation. Financial and fiscal responsibility is of paramount importance. The use of financial resources must be realistic in terms of the risks involved, the operational limits of the enterprise, and the potential return on investment.

No less important is the establishment of a training program that ensures the adequate supply of skilled Native employees. From a Native perspective, educational training contributes to the range of opportunities that are available within an increasingly complex world. It also helps Native people command a much greater share of generated wealth. In terms of competing for jobs or operating successfully within the forest industry, training in the ap-

appropriate skills is essential. Such training should have a purpose. It should involve all phases of an enterprise's operation (i.e. resource and human management, general administration, finances and computers). It should encompass basic academic training, technical training, high level education, and on-the-job training.

Native people and government should work together to close the perceived gap between initial skills training, and professional training. Industry should put more effort into investing in Native people who have personal attributes conducive to higher skills training. It is important for the private sector to work with Natives, and with labour unions, to ensure that Native people are given the chance to advance their skills through on-the-job training and have an opportunity to use these skills once acquired. Finally, the Native community as a whole should place greater emphasis on the need for training among younger Natives by giving support and recognition to individual efforts.

Although not discussed in detail in the workshop, it was noted that the Native owner-operator of business should be aware of industry standards and the market opportunities that are available. Once again, it was emphasized that the knowledge and experience necessary to acquiring this knowledge can often be most easily obtained through joint arrangements with others already in the industry.

The free and open nature of the workshop discussions, while healthy and illuminating, placed a great deal of emphasis on what should be done once a business is established. Often the discussions emphasized what Natives should do for themselves, or what government has failed to do in the past, and the perceived omissions of private industry. An objective review of the proceedings seems to indicate that no single group is at fault for what has failed to occur, and that if government, industry, and the Native people worked together much could be accomplished in future.

There remains a great deal to be done to give a greater cross section of Native people an initial start to function successfully in the industry. Aside from those already noted above, the specific suggestions that were made in the Workshop which would help to increase Native participation in the forest industry are as follows:

- (1) Government should examine its present tenure arrangements with a view to giving Natives greater opportunity for right of tenure over provincial Crown land to complement the small parcels of Indian reserve timber lands currently available to bands. This would provide Native groups with greater opportunity to acquire a sufficient land base to conduct viable forestry operations.
- (2) The Federal Government should devote greater attention to the neglected state of the timber resource base on Indian lands. The Indian timber regulations should be cooperatively reviewed and amended. As part and parcel of this, the joint AFN/CFS Comprehensive Indian Forestry Program proposal currently being considered should be followed-up.
- (3) Cooperative arrangements between the private sector and Native groups should be encouraged. Such arrangements should be mutually beneficial to Native groups and those private interests willing to participate in such ventures.
- (4) Steps should be undertaken to encourage the coopera-

tion of industry's labour unions in upgrading Native skills through on-the-job training (union protection of membership interest in the industry often results in preventing Natives from gaining access to on-the-job training opportunities).

- (5) Government programs administered through CEIC and DRIE (i.e. ARDA, NEDP, Manpower Development, etc.) have considerable merit, and should be used by Native people, and continue to be supported by government, to foster greater self-reliance and help Natives to gain access to the investment capital available in private lending institutions.
- (6) Government legislation should be examined with a view to removing obstacles that restrict the ability of Native people to acquire investment funds from non-government sources.
- (7) Short-term funds available through Indian Affairs can be used more effectively if such funds are administered at the local level.
- (8) Native people should recognize that the acquisition of funding is only a first step in establishing a successful business. Mechanisms for financial planning, administration, control, and assessing investment decisions have to be established. Sound financial management, and a good working relationship with those providing the funds is essential if Native businesses are to enjoy greater access to the funds available in both government and the private sector.
- (9) Although the establishment of a business can provide many positive spin-offs that will improve the quality of life among Native people and help eliminate social problems, Native business enterprises should be operated as profit making organizations. Sound business management practices should not be sacrificed in order to address social concerns. Social programs should be administered separately and not as part of business management or economic development.
- (10) In order to build experience within the Native community and establish greater participation in the industry, Natives should devote greater effort to developing labour contracting opportunities.
- (11) While Native education should cover the total spectrum of training and development (i.e. basic, technical, vocational, professional), emphasis should be placed on training for a purpose, closing the gap between initial skills training and technical/professional training, and on-the-job training within a work place environment.
- (12) The Federal Government should seek clarification as to the position of the B.C. Provincial Government about the most appropriate way to rehabilitate lands administered under provincial tenure. Such land usually does not receive the necessary financial support to maintain a healthy forest base because of a reluctance to invest provincial money on federally owned land. Caribou Indian Enterprises does not appear to be receiving the support necessary to maintain its forest base, despite a bark beetle infestation.
- (13) To reduce uncertainty both among Native people and the Canadian public, the early resolution of claim settlements is recommended. Particular emphasis should be directed to resolving claims involving lands that have timber harvest potential, and on land, the use of which impacts on other resources.

CONFERENCE SUB-THEME 6

WORKSHOP OUTLINE

WORKSHOP TITLE:

Agriculture and Water Resources

WORKSHOP COORDINATOR/MODERATOR:

H.V. Walker, Director, Strategic
Planning and Evaluation,
Department of Regional and
Industrial Expansion,
Vancouver, Canada

RECORDING COORDINATOR:

Herb Fullerton, Assistant Director, Policy Analysis,
U.S. Department of Interior,
Washington, D.C.

WORKSHOP FORMAT:

The Agricultural and Water Resources Workshop
took the form of panels.

All sessions were based upon panel presentations followed by an opportunity for questions from the floor, and discussion.



Workshop Delegates

AGRICULTURAL AND WATER RESOURCES

PANEL PRESENTATIONS

Strategic Planning for Agriculture Development and its Implications for the Development of Rural Communities

by

G.A. MacEachern
Deputy Minister
British Columbia Ministry of Agriculture
Victoria, Canada

The Provincial Ministry of Agriculture has worked with Native groups over a long period of time in a variety of agricultural development projects. Some of these projects have been quite successful. The one ingredient necessary for a viable development project is some form of strategic planning. This provides a basis for explaining to people what they want to do, what is involved in doing it, and who is going to do what, when, and where.

Agriculture Development and Self-Reliance

The development of agriculture and food industries is a very complex task, and a lot of initiatives have failed. To help try and place these "successes" in perspective, this presentation is based on two themes: (1) collaboration, and (2) self-reliance.

It is impossible to be totally self-reliant in a world that is getting smaller day-by-day, where we are dealing with international technology and science. No man is an island. The path to increased self-reliance through agriculture and food production requires collaboration by the sharing of knowledge, information, and experience. This provides a basis for getting on with the job to achieve our own goals in our own way.

Self-sufficiency cannot, and perhaps should not, be a goal in all food supplies, because it is not reasonable or attainable. But the goal of greater self-reliance in food production is very sound, particularly if there are market opportunities in a community on which agriculture initiatives can be based.

About a 30 to 40 percent of all economic activity in this country is directly or indirectly related to food production. Our biggest manufacturing industry is our food production industry, such as meat processing and dairy processing. It therefore is appropriate for Native groups and other people in rural settings in Canada to pursue the goal of greater self-reliance through food production.

There is a real opportunity in British Columbia, Canada, and North America to do a better job of revitalizing the agriculture industry and increasing food production. However, it is important to note that very complex and complicated food systems have evolved, particularly with respect to capital and skills. Many of these difficulties are not insurmountable, if we have the will and desire.

Perspectives of Failure

There have been many more failures in trying to achieve agriculture development around the world than there have been successes. There is a general consensus that much of this development was based on what the donor agency rather than the recipient wanted. The problem was that the people who were to be beneficiaries were not involved, it was not their plan or purpose. It was not what they wanted. They were not committed to it. They did not support it.

Another long-time problem associated with agricultural development might be called the "single factor approach." The plant breeder will say what the world needs is a new strain of corn. If we had this new strain of corn the valleys would bloom, all would be well, and everything would happen. Someone would say it is not so much the green revolution and new hybrids, it is a question of capital. A program would get introduced. Someone else would say no, the problem is education. If we just had the right education program, things would go well. Still others say what is needed is new technology. If we can just get this new system all will be well, the lilies will bloom. And so it goes. Everyone looks to single factor solutions. These single factor solutions have been tried; in many cases, and nothing has happened. The lilies have not bloomed, or even if some things have been achieved, they have not benefitted those the development was intended to help.

Perspectives of Success — Strategic Planning

There are new consensuses emerging which suggest that one of the key factors to success in increasing self-reliance is the participation and involvement of the people at the local community level. Another is that we are dealing with systems of a very complex sort. There are many interdependencies and interlinkages among factors such as technological food production, farm supplies, food processing and distribution. Therefore, a participatory systems approach is called for, to better articulate what is really involved. What we have to understand is what we really want to do, and what this encompasses. The key words are to articulate and communicate, particularly with respect to these questions so that it makes sense; so that we are able to organize and manage our efforts. All of this can be called strategic planning.

In agriculture there is a need to take a sequential planning approach to implementing a rural development program. There is a need for everyone, either directly or indirectly involved, to get together and specify goals, objectives, targets, and plans to achieve those targets, and to specify work activities that will get the job done. These goals, objectives, and targets must be developed with a full understanding of what the factual situation is regarding the opportunities, the market technologies available, the

financial needs, and organizational requirements. Sequential planning can be viewed as the recipe. To ignore this, is a recipe for failure.

Financial analysis is an essential component of planning. From a private sector perspective, it is important to find out if a project will work financially, and if it will, what might be the return on investment. From a government perspective, you look at it a different way. You ask if the project makes sense for the community, province or country. It is important to the success of the project to ensure that the government is not "going the other way." If the government is zigging while you are zagging, you are out of business. The solution, therefore, is to involve the government in your strategic planning.

British Columbia is in the process of completing a strategic planning exercise. We feel, that in the next five to ten years, much can be done to expand employment in the Province by developing its agriculture and food industry. Native groups feel we are on the right track. We are becoming more self-reliant as a community, and as a province, in producing the kinds of things that people want.

The Future

The key to food systems development, agriculture development, and renewal development is markets. Projects must produce what people want in the form and manner that they want it. This is difficult. For example, the only food product used by McDonalds Restaurants that is produced in this Province is milk. Other products such as potatoes and chicken do not meet their very complex specifications.

There is a need to deal with communities, which have an interest in development and self-reliance: communities when the residents believe that food production is a key to enhancing overall self-reliance. There is a need to take the time to plan what is required, and relate these plans to both federal and provincial programs that are able to facilitate agriculture and food industry development. This is particularly true for those special programs involving Native groups.

Much has been learned from the experiences of the last 30 or 40 years. Above all no one can force successful development on you. It has to be what you want, and what the community wants. It must be their plan and their program, because they are the people who are going to put in the time, effort, and work. It cannot be done by anyone else. But having said this, we can collaborate and we can assist each other. Strategic plans can help articulate our goals and aspirations, and help us determine whether they are achievable.

If there is one key factor that determines why successful development takes place in one area and not another, it is the spirit of the people. Where the spirit of the people is strong, development takes place. Whatever you vividly imagine, ardently desire, sincerely believe in, and enthusiastically act upon, must inevitably come to pass. It seems to me that the spirit of a people is the key to successful agriculture development.

Water and Agriculture Opportunities and Responsibilities

by

Sidney Mills
Director,
Office of Trust Responsibility,
U.S. Bureau of Indian Affairs
Washington, D.C.

There is a suggestion that within the boundaries, or at least adjacent to the boundaries, of Indian reservations in the United States there is somewhere near twenty percent of the U.S. supply of energy and minerals. Of key concern is how existing institutions might be detracting from, or contributing to the value of Indian resources. One of the most critical of these resources is water.

Water cannot really be talked about, or fully understood, without taking a lot of other factors into consideration. Of importance is the necessity to understand the institutional background which influences how we use water and land, and how water is inseparably linked to agriculture.

The Role of The Bureau of Indian Affairs

The office of Trust Responsibility of the Bureau of Indian Affairs (BIA) has the basic responsibility for the land and associated natural resources including forestry, fisheries, water, and minerals. Related to these responsibilities we also get involved with activities ranging from transportation to investment of tribal funds.

Agriculture

The BIA works with tribes throughout the U.S. Although agriculture is a priority, neither the Bureau nor the tribes seem to be allocating sufficient resources in that direction. There are several important reasons for this. Indian culture varies significantly throughout the land. Some tribes (such as the Navajo or Pueblo) respond more readily and quickly to agriculture. However, in my part of the U.S. (South Dakota) there is a feeling that the Federal Government tried to force farming on us because we came from the warrior side of the country and did not farm. Planting corn from our perspective was something that women did. As a result, there have not been many Indian agricultural successes in my home area. There are a number of successful farming initiatives on similar land near by, but not on Indian lands. In this respect it would seem that the Bureau has failed to assist the Indian community properly. Indian people were not prepared to accept the lifestyle necessary to be successful farmers.

There are a lot of factors to consider, when assessing as to why tribes in certain parts of the United States are successful, and others are not. The Bureau has recently formed a Task Force to consider this question. The Task Force consists of about 80 percent tribal representatives, with the rest bureaucrats. It is charged with bringing recommendations to the Assistant Secretary within one year on what to do with respect to cattle ranching and agriculture.

The state of cattle ranching business was a major factor in forming the Task Force. There are approximately 22,000 Indian cattle operators in the U.S. today. Most of them are in trouble because they have used their trust lands as collateral to get into business. In the U.S., Indian people can use trust lands for collateral, if a bank will go

along with it. Many cattle ranchers have worked with institutions such as the U.S. Farmers Home Administration. Consequently, a substantial number of those in trouble are about to lose their trust lands. This will checker board the reservations more than ever, and has caused great concern among some tribal governments. The significance of this phenomenon only can be fully appreciated when it is understood that most of those tribes affected do not have land or other resources such as forestry, fisheries, and mining to fall back on.

In the United States there has been major efforts by tribes to get more land. Now that a number of cattlemen are in trouble, there may be a big loss of land instead. The lack of an adequate data base is a big problem. Nobody has ever studied the 22,000 cattle operators, so no one can say for example, what the implications might be to the beef market if they go out of business.

The problem is being reviewed from both the short-term and long-range perspectives. Questions are being asked such as where the expertise should be located: In the Bureau or with county state extension services?

Water Resources

When we talk about water, we talk about the most precious resource that we have in the world. The question of tribal rights and involvement with water issues is very complicated. If one looks at all the administrations in the U.S. that come and go, water has been one of their major issues. So water has been a high priority with the Bureau of Indian Affairs, which takes the position of an advocate. The position of being an advocate requires that there is the expertise available to assist and advise the tribes on water issues when they require it. The BIA currently does not have the internal staff of professionals and experts to "compete" with other federal agencies in advocating Indian positions in competitive use situations.

Litigation on water issues is also a major concern of the Bureau. We have around 50 cases in litigation, or at least having potential for litigation, which we are trying to deal with and negotiate settlements.

The Future

Mr. Forest Gerrard, when he was Assistant Secretary, was successful in getting planning funding which is a great help now. The objective is to work with the tribes and plan what they want to do with their water. In spite of tight funding constraints, planning can proceed so that the tribes are prepared to put their projects in place when things are better.

With a precious resource like water, there are many interests involved, ranging from big companies through to state and federal institutions, who are tugging at the same stream in which the Indians have an interest. The BIA and the tribes have to find better ways of obtaining a fair share of that resource. There is a lot of work to do, but over the last few years I have seen some positive things.

Agriculture and Financing: The Role of Special ARDA

by

Brian Walker
Program Officer (SARDA)
Department of Regional Industrial
Expansion
Vancouver, Canada

The role of the Special Agricultural and Rural Development Agreement program of the Federal Government (SARDA) is to provide financial assistance to Native farmers to establish or expand farming operations.

In addition to SARDA, there are only a few special sources of agricultural funding for the Indian community. The Department of Indian Affairs caters only to status Indians, and has limited economic development funds. The first Citizens Fund, which is a British Columbia provincial organization, has limited financial resources to help Natives establish farms.

The Department of Regional Industrial Expansion, under which SARDA operates, can provide financial assistance to both status and non-status Indians. Direct financial assistance can be given in the areas of commercial activities, training, and remote, rural community development.

This presentation will focus on the primary production sectors which consist of farming, forestry, and agriculture. About 95 percent of SARDA effort is directed to agriculture.

Primary Production in Agriculture and SARDA

Since SARDA's inception in 1977, about 25 percent of the total 2,400 applications have been directed to primary production. About 200 applications have resulted in funding from the federal and provincial governments, which totals many millions of dollars.

The process for making application to SARDA is basically as follows. An individual files a "part one" application requesting assistance. There is a preliminary review to determine that the applicant is a Native and that he has a land base available to undertake an agricultural initiative. A more elaborate "part two" application is then requested which outlines their background, experience, and general expertise in agricultural matters.

A recommendation is then taken to the SARDA Advisory Committee. This Committee consists of about fourteen members, the majority of which are Native, with the balance being federal and provincial representatives from Manpower, Indian Affairs, and Small Business. The Committee makes the ultimate decision and renders a judgment as to the level of financial assistance to be provided, including any special terms and conditions.

SARDA can be quite generous toward a farmer in a number of areas such as land development, initial seeding of alfalfa and hay, and the construction of hay sheds and fences. We can fund up to 100 percent of the capital costs. In areas such as irrigation equipment, farming machinery, and agricultural buildings, we can go to a maximum of 50 percent of the capital cost and to a maximum funding level of \$30,000.

There are two general categories of farmers. The majority represent the "Ma and Pa" operators with a very small land base. Many of these people are also involved in another activity such as logging. There are also large-scale type farms and commercial operations that may be controlled by a band, or band cooperative. Funding in these cases can be to a higher level than \$30,000.

Payment of funds is based upon a reimbursement of actual expenditures. For an individual purchasing a tractor, the Program will reimburse him up to 90 percent of the funding after he has a letter of offer, arranged the financing, and submitted an invoice and cancelled cheque. There is a small holdback to encourage the recipient to undertake the project and not sell the equipment. After a

maximum of three years, if the individual has been utilizing the equipment and the assets for the purposes intended, then the holdback is released and the file closed.

The Future

The objective of the SARDA Program is to encourage Native individuals to get into farming and to expand farming operations. The Program has been very successful, and well received by the individuals in the Native community.

What has become obvious is that when an individual receives assistance from the Program and starts developing his operation, the next door neighbour sees this development taking place and approaches us for funding. This has a snowballing effect. In some parts of the Province we have a great demand for assistance, and as a consequence, agricultural activities in these areas are quite strong and dynamic.

The SARDA Program has contributed quite extensively to Native agricultural development in the Province of British Columbia.

Indian Agriculture and the Role of the Western Indian Agricultural Corporation

by

Alejandro Palacios
General Manager,
Western Indian Agricultural Corporation
Vancouver, Canada

The Western Indian Agricultural Corporation (WIAC) is a British Columbia Native institution aimed at fostering Indian agricultural development through the provision of extension services. The Corporation is funded through the Federal Department of Indian and Northern Affairs. However, it is fully controlled and administered by a Board of eight Native farmers from across the Province who make all the decisions on priorities and funding allocations. The Corporation was created in 1979.

Historical Indian Involvement in B.C. Agriculture

Prior to its inception in 1979, a great many Native people who were interested in agriculture fought long and hard for a higher priority for agricultural development funding. Indian people in the early 1970s controlled over a 150,000 acres of agricultural and grazing land. However, very little of this was being utilized.

There were a number of reasons for this lack of development. There were cultural barriers as most Native people in the Province were not from agricultural societies. There were educational barriers as Indian schools were not structured to turn out farmers. There had been a lack of encouragement from government, as well as institutional barriers resulting from the rules and regulations on the use of reserve lands. Geography was also a limiting factor. Much Indian land is too far away from a marketplace. Finally, there were always the financial barriers.

Most Indian agriculture initiatives are small. It has been estimated that the average Indian farm unit in B.C. only realizes about 60 percent of the annual gross production of a non-Indian unit. There was also a general lack of awareness among Indian farmers about the potential of their valuable resources and the availability of related technology and information.

The Western Indian Agricultural Corporation

In the 70s it was recognized that Indian farmers need what non-Indian farmers need — financing and professional advice on how to operate their farms. Thus, WIAC was established to address the two primary needs for Indian farmers in B.C. The first is improved access to capital funding, and the second is access to extension services and training on technical, operational, and managerial matters.

The concept of WIAC originated through the Indian people of British Columbia as a kind of agricultural trust that would give Indian farmers the training and advice they need to run their operations. The Corporation's goals include:

- Fostering and promoting the increased utilization of reserve land for agricultural uses.
- Supporting continued Indian access to the outside resources necessary for local agricultural activities (such as water rights, range use permits, financial resources).
- Providing extension services, training and education.
- Facilitating the use of new and more technologically advanced farms and farming techniques.
- Helping to facilitate planning to meet Indian goals.

WIAC primarily provides an extension service, and has no budget for loans or grants. It assists people on how to access sources of outside funding. The Board of Directors wish to keep it that way because of the freedom and flexibility that it gives in terms of providing training and extension services.

WIAC provides a full range of extension services to status and non-status Indians that is comparable to any provincial ministry of agriculture. These services cover program evaluation and assessment, responding to requests for technical assistance, responding to requests for financial information and applications, marketing assistance, and counselling clients on technical aspects such as the climate.

WIAC averages about 1,200 contacts with clients a year. Its field workers are involved in data collection for technical reports, organizing client training, and assisting 4H classes. Another important aspect of WIAC field activities is in helping Indian farmers plan the financial aspects of operating a ranch or farm. In the four and one-half years of the Corporation's existence, it has assisted the Indian community to obtain about \$8.3 million in government funding, loans, and contributions.

With respect to training, WIAC conducts seminars, workshops, courses, and field trips to provide Indian farmers with some of the necessary basic technical knowledge on topics such as farm management, animal health, machinery maintenance, and vegetable production. In 1983, for example, training services provided 71 workshops and courses (average length two days) which had an attendance of 880 people. WIAC also has a bimonthly newsletter with a circulation of 900.

Another key WIAC activity is organizing an annual Indian Agricultural Fair. The Fair without a doubt has been a crucial factor in the development of the WIAC Program. It provides an excellent opportunity to obtain feedback from the community. It has become a major event for the B.C. Indian community. It now includes an arts and crafts section, a home canning section, as well as an Indian dance and fashion show.

WIAC has directed effort toward facilitating Indian involvement in the 4H Club. Prior to WIAC there were no Indian clubs in the Province, now there are fourteen. Six

beef oriented clubs, six community clubs, and two arts and crafts clubs. There are now about 150 Native children in the 4H program in B.C. The Corporation also coordinated a summer student program funded by Canada Manpower. During the summer of 1983, a total of 40 Native students in their first or second year of college were hired to work as summer WIAC students.

The Corporation has five main classes of personnel: management, administrative, professional agrologists, advisors, trainees, and summer staff. All field workers except one are Native people who have training in agriculture and farm expertise. WIAC has a total of fifteen employees throughout the Province at this point in time.

At the beginning of the Program, most of the extension work was directed toward creating awareness among Indian farmers about the potential to develop their lands. Most workshops and other training activities were of a general nature. As Indian interest and involvement increased, pressures were put on WIAC staff to participate in a variety of new activities. Increased demands, coupled with budget restraints, have led to professional staff dedicating most of their time to specific programs, with a resulting lack of support for field staff. The Program has created a lot of expectations among Indian farmers. There are many who feel disappointed because WIAC personnel cannot work closer with them.

The Future

Today Indian involvement in farming is steadily increasing. There is an estimated 200 individual full-time farmers in B.C., with another sixteen to twenty corporate farms on reserves. Despite the awakening of Indian agriculture, the Native farming industry still lags behind the main stream of the B.C. agriculture sector. Estimates are that about 60,000 acres of land are still not being utilized.

As WIAC evolves, there will be more emphasis placed on training field workers so that they will be able to provide the required technical advice. Due to limited funds, there is a clear need to establish priorities. There will probably be a move from the general awareness type of work to more specific agricultural development projects which focus on those farmers who are eager to learn, work hard, and accept managerial responsibility.

Another focus will be to improve and develop the working relationships with other institutions such as the Ministry of Agriculture, the B.C. Institute of Agriculture and Food, and the Canadian Executive Service Organization. The Ministry of Agriculture is currently providing specific technical advice to a number of Indian farmers. The University of British Columbia is discussing the possibility of developing a special Native program within the Faculty of Agriculture. These have been major accomplishments, because they have brought the need to develop agriculture resources on Indian lands to the attention of a large number of people.

WIAC now holds most of the responsibility for the growth of Indian agriculture in British Columbia. Future plans call for the further extension of government services to the Indian community. The focus will be on developing human and professional resources in agriculture areas, and providing for training and youth development. The Corporation will also continue to foster and promote Indian agricultural development through investment in technology, machinery, commercial cattle, land developments and buildings. Another new area of interest for WIAC is tied to range management, because of the direct

relationships to ranching. Finally, WIAC is directing efforts to developing a complete inventory of agriculture related resources, including land capability and water rights. Without doubt, water will be the crucial factor in the future of any new Indian agriculture enterprises.

Indian Agriculture and the Role of the Saskatchewan Indian Agricultural Program Incorporated

by

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The Saskatchewan Indian Agricultural Program (SIAP) was originally conceived and started in 1972 by a Planning Committee made up of Indian farmers, people that were experienced in third world development, and some specialists in agriculture. The basic intent was to facilitate Indian agricultural development in the Province of Saskatchewan.

Program Need And Evolution

The Planning Committee initially held a series of meetings with these Indian farmers and governments who were trying to determine why it was that a million acres of good agricultural land was not being farmed by Indians. In 1972 there were only about 40 Indian farms that were self-sustaining units.

At that time there was a lot of talk regarding opportunities such as real estate and energy. However, here was good agricultural land, and agricultural development should be relatively easier to establish than other forms of business such as high tech. The Committee felt that the land was available and they were not using it. Therefore, there must be some deficiencies or obstacles that could be overcome. The Planning Committee tried to identify what these obstacles were and to plan for ways to eliminate them.

The first major obstacle identified was the lack of Indian management capacity. Agriculture was getting more and more capital intensive, and a much greater emphasis was being placed on the use of chemicals. Indian farmers did not have access to knowledge, nor did they know how to obtain that access. The second major problem identified was the difficulty that Indians have in gaining access to credit on reasonable terms.

The Planning Committee then developed a program to overcome these problems. A first step to provide a management capacity was to plan for the establishment of a staff of professional agrologists, that could advise Indian farmers on an one-on-one basis. This was to become one of the key aspects of the Program.

Regarding access to credit, the Committee started to work with the Indian Economic Development Loan Fund which made loans available to farmers. We negotiated on behalf of farmers with banks and regular lending institutions, and had their staff prepare business plans and proposals that would be acceptable and understood by banks. There was also a substantial contribution fund established so that the Board of Directors could approve and allocate

funds subject to certain criteria. As a result of all these activities, there was quite a large flow of capital: this helped facilitate a coordinated approach.

The Indian Argicultural Program was approved in 1975. Since then the Corporation has always been in the funding business (unlike the Western Indian Argicultural Corporation). We make up proposals, develop applications, and have some capacity within the Program to allocate money very, very quickly.

Present Structure

The Saskatchewan Indian Agricultural Program is structured as follows. Each band within the Province of Saskatchewan has the capability to select or nominate one member that sits on a local District Board. The District Boards plan the local activities of the Program within their own District. One member from each District Board sits on the Provincial Board of Directors. There are seven districts so there are seven Indian farmers on the Board. There is also a representative from the Provincial Department of Agriculture, the Federal Departments of Indian Affairs and Agriculture, a member from the agricultural community at large, and one from the University.

The Board of Directors control the planning, strategy and day-to-day activities. The bands are able to have direct input into the operation of the Program, and thus plans developed on a local basis by the bands themselves, are always taken into consideration. The Program is tied to meeting their objectives because their representatives are directing the Program. This is a very key element to success.

Program Contributions Toward Self-Reliance

In 1972 there were 40 self-sustaining, full-time Indian farms. In 1983 there were 400 Indian farms in Saskatchewan. Gross production in 1972 was \$2.0 million. Approximately \$180 million is expected this year. This is being generated from a budget of about \$2.4 million per year. There is feeling that the Program has been, for the most part, a wise and good investment on the part of the Federal Government. The Program also supports a youth development initiative and an Indian 4H program. At last count, there were over 900 Indian youths involved in the 4H program. There is also a summer camp every year.

The Future

The Corporation has been getting into a number of new areas over the last few years. For example, the planting of wild rice. About half the Province is agricultural land and the other half just lakes and rivers (mostly in the north). We were often accused of not doing anything in the north because there was no agricultural potential. The Corporation conducted a study on what potential there might be, and the study results pointed to wild rice.

Wild rice is a cereal (the only one native to North America) and is an annual crop. The Corporation test seeded it, and the program turned out well. In 1983 we set up a processing plant to handle the product. Now there are 300 Indian farmers seeding wild rice. Saskatchewan will produce the largest rice crop in Canada this year.

Wild rice is a relatively new industry, and the marketing channels are not yet well established. To help overcome this, we have set up a subsidiary company called the Saskatchewan Indian Agricultural Program Marketing Corporation, that hopefully, will buy up the rice and sell it in an orderly fashion. The Corporation suspects that if they had not actively pursued wild rice there would not be such

an industry in Saskatchewan today.

Another new initiative is to put a proposal to the Native Economic Development Program Board of Directors to establish a loan company. If there was a "one stop financial centre" where there was a capacity to provide shopping advice, loans, and contributions, we could put package deals together and we would have a much greater capacity to serve the Indian farmer.

The Saskatchewan Indian Agricultural Program was approved over five year time intervals, from 1975 to 1980 and from 1980 to 1985. The Program will expire in March, 1985. We are presently working with other Indian agriculture corporations in Manitoba, Alberta, and British Columbia to try and get renewals for these programs for another five years.

Economic Development, Agriculture and the Winnebago Tribe

by

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The Winnebago Tribe was traditionally a very proud, independent and happy people. We had all the social institutions of any organized society — a government, a process of education, and a health system. The women planted and tended gardens. They were so good at horticulture, according to an anthropologist, that other tribes used to raid their gardens because they could not grow things as well. The men hunted and fished. Then a fur trade was started with the French. When this happened we became trappers instead of hunters and gatherers. This caused people to disperse from large villages to many scattered communities all over Wisconsin.

As colonization proceeded, the Winnebagos became allied with the English and fought against the Americans in the Revolutionary War and the War of 1812. In 1837 we were obliged to enter into a treaty which called for the establishment of farming as a way of life. The government was going to provide all the tools, livestock, and training that they thought was necessary to convert us from hunters and trappers to farmers.

From 1837 to 1865, the Winnebagos went into a pattern of forced relocation. We were in Iowa from 1837 to 1846. Then the territory opened and white men wanted the land. As a result the Winnebagos moved to northern Minnesota during the period 1846 to 1855. Once again pressures from the white community forced a move to southern Minnesota, where the process of clearing farms, and building schools and churches started for the third time. Because of the great Sioux uprising, our people were again uprooted and transferred to South Dakota. The Omahas then invited us to share their land, and the last treaty with the U.S. Government was entered into in March 1865. This established the northern half of the Reservation as Winnebago.

Up until World War II, farming was the most stable way of making a living on the Reservation. However, after the War, things changed. Everybody began to give up farming. At that time it became apparent that a leadership problem existed.

Through the 1940s, 50s and into the early 60s older men were the only ones elected to Council. However, these older men did not really run the tribe, the Bureau of Indian Affairs (BIA) did. The Council never made a decision without consulting the BIA Superintendent, and the BIA was always telling the tribe what was best for them. Had we been living according to the ways of our ancestors, this would have been okay. But we were not living in a traditional setting and the BIA were taking our children and running them off to BIA schools that disassociated them from our culture.

In the early 1960s things again began to change, many of my brothers began to return home. A survey was conducted (1967), which indicated that 95 percent of the reservation housing was substandard, the average level of education was nine years, and average life span was about 44 years. It was at this time that the younger generation said there must be change.

A Change of Direction by Winnebago Leadership

In 1967, younger people took over the Council. Today three or four Council members have Masters degrees in various fields. Let us see the results of their leadership.

- From 1965 to the present, 180 new homes have been built on the Reservation.
- Ten years ago we created an Indian community college on our reservation to meet our needs, to educate our people so that we could do what we want to do — and not what the BIA or other federal agencies want us to do.
- We changed the educational system of our public schools to reflect more of our needs. In the past, non-Indians, who constituted only ten percent of the school population, had controlled the School Board for generations. We now control the School Board.
- About twelve million dollars has been invested in construction such as homes, schools, swimming pools, water systems, and paved streets.

We dealt with the social needs of our people by creating all these programs using federal money to build houses, provide education, and administer health. We have been so concerned with housing, education, and health that we have not been very effective in achieving self-reliance.

To begin to establish a basis for achieving greater self-determination and self-reliance, I reviewed all the planning documents that we had been obliged to create over all the years of federal funding. Everybody wanted planning documents: the Economic Development Administration, Housing and Urban Development, the Bureau of Indian Affairs. I extracted all the priorities that people said were necessary, and put them together. I found out there was a need for light industry, commercial business, tourism and recreation development, and agriculture. These were the four areas of development that the documents identified, so that is the way things were set up.

Today I have thirteen full-time staff in the planning department. There are research and development experts, a systems analyst, a program designer, grant writers, and a legislative analyst. There is also a land management and land use specialist, as well as a person responsible for administering all of the development programs. And that is where I think there is a great weakness in most new tribes I deal with. They do not commit resources to planning and development.

We have instituted a land acquisition program. We used \$900,000 of tribal money, that was obtained through land claims, and borrowed \$380,000 to give us the power to

buy back in excess of 1500 acres of our Reservation from tribal and non-tribal members. The Federal Mortgage and Housing Administration is going to give us \$620,000, and there is still \$180,000 of our own money to buy back even more land. As part of our tourism and recreation program, we are building a million dollar bingo palace, which will initially generate about \$6.6 million in revenue. This will produce about \$1,000,000 net profit for the tribe. This profit is going to be used for program development and to set up a permanent land acquisition program.

We have used Department of Labour money to create an agricultural training program through our community college, and about fourteen people now have their B.A. degree in agricultural science. We have been running a canning program for about eight years, and about half the women in the community know how to can and tend gardens. This year we have 33 acres of truck gardens planted. We now have submitted an application for funding to build a commercial cannery.

Last year we opened up a tribal grocery store. Between the Omahas and Winnebagos we spend about \$3.3 million a year on food stuffs alone. In the past almost all of this was to be spent in Sioux City. With the tribal store, we captured a half million dollars of that market in the first year of operation, we hope to capture a lot more.

There is an organization called Heffer Projects International based in Little Rock, Arkansas, which functions in about eleven countries around the world. They provided us with \$50,000 to start-up a beef cattle herd. Today we do things small because we are small. We start out with what we can handle, and as we get good, we expand. We bought 35 head of registered Angus cattle and two bulls. Now our herds are up to about 100 head.

The Future

We have got a twenty year plan, which we started in 1980. By the year 2000 all the little things we have in place are going to be big things.

After the people were trained in agricultural science, we leased a 40 acre piece of land and put a hog farming finishing project on it, as well as a little row cropping. This year we are farming 700 acres of land, which includes over 400 acres of row crops worth about \$400,000. The farm manager was told this year there would be no more tribal money. So he went out and obtained a \$62,000 loan and brought in some consultants to computerize the whole operation. After the first four years of operation, we hope to realize a net profit of \$34,000.

When I first looked at the question of self-reliance, I looked at the way the Incas and Mayas used to live. From a very limited land base, they used to take care of a lot of people. They had a system that used to function. So I am now trying to create this tribally controlled, reservation-based, Indian-oriented economic development system within the confines of our Reservation. It is working.

We send our people to our community college and train them in forestry, industrial arts, grocery store management and agricultural science. We use the community college as a training base. We control the college and we designed the program for the benefit of the three tribes of Nebraska. There are some booklets available which give a fairly accurate description of our process and system. They are based upon five year projections, but there are also some twenty year charts.

In the past we used, and will continue to use in the future, a lot of private resources for our programs. Church

groups have been very supportive. The Mormon Church, for example, has helped us plan a 640 fruit tree orchard.

We are going to set up a honey bee operation. Sioux Bee Honey, located in Sioux City, Iowa, is the biggest producer of honey in the world. They are going to buy every ounce of honey we can produce on the Reserve. We are going to build an ethanol fuel production plant with an output of between three and ten million gallons per year. Within a 50 mile radius of the Winnegabo Reservation, there are 150 million bushels of corn grown every year. Corn is the best product to make ethanol out of, and the corn residue after processing can be used for livestock feed. We are also exploring the concept of setting up fish farms on the Missouri with the BIA.

By the year 2000, I would say that the Tribe is going to be realizing a net profit of about twelve million dollars per year after creating between 500 to 600 jobs. We will be using the money to better our situation. For example, we have purchased 80 acres adjacent to our community college. We are looking at this to create a four year college, so we can train our own doctors, lawyers and all the technical people that we need. We have plans to build a nursing center, because right now the old people who require constant care are being taken off the Reservation. We prefer to have them at home.

During the development of our Reservation we have used over three dozen federal agencies, state agencies and private institutions. They come, they look, and they believe in what we are doing.

Critical Constraints to the Full Development of Native Agricultural Resources

by

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It is fair to say that the full potential for Native development of agricultural resources has not yet been realized. The reasons behind this failure are numerous. They are complex, and run the gamut of political, legal, fiscal, administrative, managerial, and policy.

The foremost issue, or obstacle, is water resources. Indians have a first claim on water resources based upon a Supreme Court decision of 1908. However, because they have not been able to clearly define their water claims, and as a result of legislation favouring non-Indian projects, much of the Indian water has been appropriated for use by non-Indians.

This poses a dilemma. How should water already in use be shared? The tribes are following two avenues in trying to obtain a fair share. One is through litigation with the support, on occasion, of the Federal Government as a trustee. The second avenue, which is only in the pioneering stage, is through negotiation and then having these negotiations ratified by legislation.

A second major obstacle is the access to capital and credit. One of our clients provides an interesting example. The Ak-Chin Indian Community, with about 400 members located on a small reservation (approximately 21,000

acres) south of Phoenix, decided in the mid 60s to embark upon their own farming operation.¹ There was not a bank in the surrounding community that would extend a major loan to purchase equipment in order to get the project off the ground. However, the manager of the Casa Grande Cotton Finance had confidence in the Indians and decided to loan them the necessary funds. His trust and faith in them has been borne out in that they have developed a very profitable farming operation.

Each year the tribes borrows about \$4.0 million, and then they draw down on the loan during the summer to meet operating costs. The loan is then repaid as the crops are harvested and sold. Tribally owned land cannot be alienated by mortgage. Collateral is of prime concern to any lending institution. What serves as collateral? The collateral is the crop. The Company also has the right to come on the land and to farm it in order to recoup its money. This is reasonable. Through initiatives such as this, the Ak-Chin and Winnebagos have found ways and means of finding financing for agricultural development.

A third major factor inhibiting the development of Indian agricultural resources has been federal Indian policy. The Dawes Act of 1887 allocated lands to Indians. The President was given the authority to subdivide the reservation and the tribes were permitted to hold a percentage of that land. Individual allotments were to be held in a trust status, and could not be sold for a period of 25 years.

Looking at the map of the northern tier of states, the midwest and the west coast, the solid reservation area is misleading. Most of the prime land is owned by non-Indians, and went out of Indian ownership at prices that were probably unconscionable even back then. At the time of the Dawes Act, Indian tribes owned about 150 million acres of land. Today they own and control 50 million acres of which 75 percent is under tribal control and about 25 percent is owned by individual Indians. For those few Indians that did hold on to their allotments, the right of heirs to the land became a major problem. On a 160 acre allotment there may be several hundred owners with an individual share in the land. Obviously this creates a management problem if you want to develop a farming or a cattle enterprise. Therefore, federal Indian policy has had a tremendous impact on Indians' ability to sustain themselves.

Another problem has been the vacillation of Indian policy that has swung like a pendulum from paternalism to the termination. In more recent policies, dating from the 50s, the U.S. Government has sought to terminate the unique relationship that Indian tribes and their members have with the government. This has led to the removal of a number of protections to the land, and the termination of special services to Indians.

Another policy factor is the application of federal trust responsibilities. These responsibilities are embedded in the Constitution, in treaties, and in a whole array of statutes, that involve decisions ranging from the U.S. District Court to the Supreme Court. When the trust is performed in a responsible manner, it works to the benefit of the Indians, because it is designed to protect, preserve, and enhance their land and natural resources. When the federal trust responsibility is not enthusiastically enforced or supported by the government, then the Indian opportunity to effectively utilize their resources is significantly reduced. This may be done in many ways. The Department of Interior, for example, may choose to let a bad court decision stand rather than requesting the Department of Justice to appeal the case.

¹ See presentation by Forrest J. Gerard pp. 146-148.

A fourth major factor inhibiting the growth of Indian agricultural development is the lack of economically viable sized acreage upon which to establish farming or cattle enterprises. To address this problem, some tribes are trying to acquire lands that were formerly tribally owned and consolidate their land base. Some tribes are effectively doing this by setting aside funds received through judgment awards and Farmers Home Administration loans.

A fifth prime factor working against tribal development of their agricultural resources is conflicting goals. Without mentioning names, the following describes an actual situation in the U.S. southwest. A tribe had land that was irrigatable and had access to a reasonable supply of ground water. So they decided to embark upon a three to four thousand acre farming operation. They established four goals which they wanted to achieve. These goals were to:

- (1) Employ members of the tribe at all levels.
- (2) Make a profit.
- (3) Raise alfalfa and hay so that the produce could be donated to families and to individuals and then sold at very reduced prices to the cattle operators on the reservation (probably for a price that would not even support the cost of production).
- (4) Have the farm managed by an Indian person (unfortunately they did not have a person with the required professional and technical training).

The key point is that, while the goals taken individually might be considered meritorious, taken together they really worked against the tribe having a successful farming operation. The tribe is now stepping back and re-examining their goals to see how they can modify them and make them form a truly productive and successful enterprise.

The final major constraint can be called the isolation factor. Some tribal farms are so far away from markets that certain crops are not practical to produce even though they command a high price.

The Future

Several critical factors and issues have been identified that serve to retard the full use of Indian agricultural resources in the United States. I do not believe that any one of them alone need be considered insurmountable. Unfortunately, I do not think our government — perhaps like yours — has figured out the kind of rational policy that would enable both the government and the Indian tribes to work together and deal with all of these factors at once.

Perhaps the best approach has been outlined in Ruben Snake's presentation, and that is, the answers have to be developed out on the reservations. The most impressive thing about the Winnebago story is that over a period of time we have seen the upgrading of the leadership, and the use of specialists and consultants. They have been able to seek out resources from a variety of sources throughout government, the private sector, church groups, and foundations. They have been able to package them and focus these resources on their own community and begin to show the progress that is needed. There probably are not too many smaller counties in the western states that have such a clearly defined long-range plan of where they want to go as the Winnebagoes.

2 This paper has been summarized for the Conference Proceedings. A full text may be obtained from Dr. Lebaron at Utah State University.

3 Organization and paraphrasing of this section are from: K.A. Wittfogel, *Oriental Despotism* (Chapter 1, pt.D). New Haven: Yale University Press, 1957.

The best answers to the issues and problems rest not in the hallowed halls of Washington, D.C., or in the minds of some consultants, but in the Indian community itself. The stage must be set out there. The determination, the attitudes, the leadership, and all the ingredients that are needed to put a successful effort together must be brought to bear at the community level. Then with a rational and sympathetic federal policy, I think we will begin to see some real progress and development on Indian reservations. In the long-run, the Indian people will be contributors, and they will not be looked upon as a permanent welfare load. That is the preference of most Indian people I deal with.

Socio-Economic Considerations In Irrigation Development²

by

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This paper begins by reviewing the political and economic power which is conferred by institutional requirements, and ends with an attempt to delineate the economic boundaries for successful irrigation projects under lesser developed country (LDC) conditions. Also discussed are private initiatives inside a collective production versus welfare projects, tenure subsidies, social costs and benefits, comparative advantages and other considerations. The topics are skewed at the end towards the implications for the agriculture sectors of the LDCs of the world. An interpretation is provided as to what this might mean for Native self-reliance in North America.

The Decision to Realize Hydraulic Potential³

The contradiction inherent in a potentially hydraulic landscape is manifest. Such a landscape has either an insufficient rainfall, or none at all, but possesses other accessible sources of water supply. If man decides to utilize such sources, he may transform dry lands into fertile fields and gardens. He may, but will he? What makes him engage in an adventure which involves great effort and which is fraught with highly problematic institutional consequences? Historical evidence reveals that numerous groups of persons have made this decision. It also reveals that many others have not. Over the years, tribal gatherers, hunters, fishermen, and pastoralists inhabited potentially hydraulic regions. These regions were often in close proximity to irrigation farmers, but few abandoned their traditional occupations for a hydro-agricultural way of life.

The agrarian alternative had a limited and very diverse appeal to non-farming groups. Cultivation was primitive and the leadership requirements were not overly demanding. After the emergence of stratified agricultural societies, the choice became even more serious. The authority wielded by governments and wealthy landowners of nearby agrarian states acted as a deterrent. Under these conditions the shift involved submission to distasteful methods of political and proprietary control. Although women, children, and war captives might till a few fields close to a campsite, the dominant members of the tribe, the adult males, stubbornly refused to abandon their hunting, fishing, and herding activities. The many primitive

peoples who endured lean years, and even long periods of famine, without making the crucial changeover to agriculture demonstrates the immense attraction of non-material values. Particularly when increased material security can be obtained only at the price of political, economic, and cultural submission.

The transition to irrigation farming poses the problem of choice in a still more complex form. The primary choice (whether or not to start hydro-agriculture where it had not been known previously) was generally, though perhaps not exclusively, made by groups familiar with the techniques of primitive rainfall farming. Notwithstanding such background, the choice, once made, brought with it a new realization: irrigation farming always requires more physical effort than rainfall farming when performed under comparable conditions.

The Physical and Cultural Situation in Our Day

At this moment in history, there is still little necessity for rain fed regions to be concerned with irrigation, even though some are turning toward small and individualized hydro developments. The chief pressure for irrigation is in the old historic areas. In earlier times, there were certain regions where bulk water could not be harnessed due to lack of technique or because of the inability to control its application. There is, therefore, a cultural as well as financial dimension that must be taken into consideration in irrigation development.

This requirement has shaped many of the elements that form the history of the western U.S.A. in the modern era. In the arid west, an underlying issue always has been: How can society obtain the benefits that private initiative confers on development, yet temper individuals' self-interest inside a collective? Unfettered individualism must be given up, yet initiative retained. But this amalgam has been difficult to affect or sustain beyond the level of "mutual irrigation companies" except on a foundation of public subsidy.

Water Source Tenure

One way or another, those who develop a water source and conveyance structures, have to be guaranteed ownership rights. If these rights are retained by the state, the possible implication is that only the state is in a position to guide and manage what is created. On the other hand, if individuals or groups have recognized tenure rights to water sources, automatic development will tend to occur.⁴ This may be seen in cases where a group relies on a natural source such as a spring. Each family utilizes the water in turn to the degree it can be "stretched out."

A person may "sell" water to others if he can control either the water or access to it. This type of ownership, of a necessary and vital source, causes conflict even to a greater degree than in situations where land is monopolized.⁵ If, instead, the state owns all the water, then as ancient history has shown, the populations will be subject to many controls of centralized power. At the same time, if the

state does not choose to direct all things in a despotic way, the farmers may not do all things that are technically feasible with the created system. That is, if the state retains management control and still expects voluntary response, it may be disappointed at the form the response takes.

Water Development

In the first instance the collective can be left to its own devices. That is to say, if the "members" have tenure to a "spring" they can proceed along certain development paths themselves. This merely requires some degree of initiative and imagination, which is rewarded by the results.

If a larger collective identifies a "spring," the size necessary and technical requirements for development may be too great for private initiative. Whether or not private initiative is up to the task depends upon adjudicated tenure rights and potential economic payoffs.

In the western U.S. the economic payoffs were uneven. Early irrigation companies, established as profit making entities, often failed. On the other hand, the easy development of smaller-scale sources (mainly river diversions) based on investment of human and animal capital (not bank loans), in a spirit of mutual self-help were more successful.

In modern times state mandated development of public works has been rationalized on various grounds. One of the most commonly cited is the inability of a diverse group of water users to obtain large amounts of investment capital.⁶ Obviously, once built such works are not likely to be any more profitable for the state than they would be for private enterprise. This is especially true when all easily developed areas have already been exploited. In addition, earlier irrigating works may have been situated to command the best lands. Of course, the state may be able to improve existing simple systems by introducing storage of late season water, by irrigating additional land on the boundaries of what already exists, or it may be able to direct some water away from current users to be employed elsewhere.

As projects become more complex, legal considerations proliferate. Tenure rights and their enforcement exact more and more attention and resources. Additional legal and legislative adjustments are needed to resolve questions of project financing. If water beneficiaries are required to bear some financial burdens, additional restrictions are placed upon individuals because the money must be collected. An engineering and administrative technostucture emerges, and eventually, gathers to itself the trappings of power and control that the authority to move and shift vital resources confers (i.e., a modern version of oriental despotism).

Measuring Social Benefits of Irrigation Development

One reason why the concept of "the spring" is important is because no one expects even a voluntary, non-profit collective to expend effort or resources on development, unless potential payoffs are expected to cover the costs. Assuming the collective evaluates its alternatives carefully and that markets for the necessary labour, capital, and other inputs are relatively free, any decision to go forward is a rough indication that the society, as a whole, will benefit to a greater degree than if an alternate use of the resources had been chosen. In other words, a "correct" evaluation of society's opportunity costs is made some-

4 Tenure does not have to extend to the source itself, although in the case of a spring it might. It is sufficient if "tenure" is simply a usufruct right to the "production" of the source.

5 There is a tendency to try to control land areas great enough to utilize all the source, then there will be no surplus to guard or protect.

6 There is no doubt that enormous amounts of private capital can be amassed for projects which contain adequate guarantees. But financing is a problem where the land security consists of a lot of separated farms, since the structures to be built are of little use to anyone except families who work the lands below them.

what automatically by market forces.

The same opportunity cost principle may be invoked when evaluating economic choices made by the state. Indeed, such application is important because large projects tend to be expensive, and often return less than the value of their construction and support resources, as measured by their value in alternative uses. The mere fact that the expected benefit-cost ratio exceeds unity during the planning phase, does not guarantee economic success. Irrigation projects that flop, waste publicly owned scarce resources. This hurts all citizens.⁷

In some cases, of course, the state does not expect the benefit-cost to be one. The decision to subsidize is often, but not always, an indication that non-economic considerations are quite important. Goals other than enhanced production are involved.⁸

The existence of a subsidy can mean only one of two things. If we assume that stated project goals are all economic, a subsidy may be interpreted to represent a hope that some secondary economic benefits will be created by the project. Such benefits are hard to measure. Studies of regional economic impacts of big U.S. water projects are inconclusive. Not much impact on local economy can be attributed to them. If there are some explicit or implicit welfare goals, the subsidy to irrigation may be justified on that basis. The whole of the Western U.S. Irrigation Program was never expected to pay its costs. The Program was established for social rather than economic reasons. No matter how welcome in terms of satisfying social needs, however, the cost of enhanced consumption must be paid. When the incidence of the subsidy burden falls upon the general exchequer, the question is: How far is society willing to go in subsidizing consumption (for welfare purposes) of a select group?

Technical and General Lessons in American Public Irrigation Experience

The technical lesson is that just because irrigation increases yields, this is not a guarantee that irrigation programs will be an economic success. What really counts is whether the profitability of the production increases is great enough to pay for the extra cost of production and induce farmers to work harder (as required by intensive agriculture): Whether it gives an increment of returns great enough to offset the costs of the project.⁹

U.S. reclamation project farmers have raised output and have made somewhat more money (thus satisfying the first part of the profitability requirement), but they were never asked to pay full cost. And, it is unlikely that the profitability of many of these projects would have been great enough to have justified the expenditure. Inability to pass the second part of the profitability test was always accepted by reclamation program administrators. They got around this problem by utilizing revenues from the sale of generated electric power, or enhancing municipal and industrial water supplies in order to subsidize the costs of construction.

The general lesson is that profitability depends upon markets. Other nations cannot get away with what the

U.S. has attempted to do in the name of "reclamation" and social equity.

Markets — The Iron Law

The U.S. domestic market is so large that reclamation project designers chose to ignore whether new and additional productive output can be absorbed without price effects. Price fluctuations due to vagaries of climate would outweigh the effects of adding to supply. Subsidies were paid in order that reclamation farmers could hold costs down, while the expected higher yields would increase farm revenues at the going prices. However, they cannot at the same time, ignore the impact that new project production will have upon existing markets. If farmers on irrigation projects increase output of agricultural products, it is possible that other farmers may lose sales. Thus, Gross National Product (GNP) will not increase as much as expected. Unless there are markets for this additional farm production there is little hope of obtaining, at the national level, clear gains in GNP at overall profitabilities which exceed the social opportunity costs. In addition it will not provide the rewards necessary for the extra effort and investments by farmers.

Summary

Irrigation benefits, in many cases, are unlikely to reward farm families enough to fully offset construction subsidies. As a consequence, irrigation projects are turned into welfare programs. As we have noted earlier, in and of itself, this may not be necessarily evil or wrong, because society may have other goals besides achieving higher production. Nevertheless, it should be recognized that welfare programs can absorb endless quantities of resources that must be paid for by someone, somewhere, sometime.

More and more international donors are insisting upon financially sound projects. This requirement stiffens up the repayment burden by shifting the load from the general exchequer onto the backs of direct beneficiaries. The tightening up of performance requirements is one explanation of donor interest in repayment ability of farmers and upon schemes to charge for water. Donors realize that all subsidies have to be covered, and if the projects cannot stand on their own feet financially, the subsidy repayment must come from other sectors in society. Most nations in need of increased production and economic development, are not the kinds of societies that have a lot of surplus paying power in non-agriculture sectors.

Another reason for the interest in repayment ability is that engineers want to pour concrete. They are always anxious to show farmers in just what way it is possible to pay for evermore expensive undertakings. In other words, if the farmers can pay, there is less reason for central government to come up with the bucks. There is no new strain on the development budget since the farmers will pick up the tab.

Perhaps another reason for emphasis on repayment ability is to put more development emphasis on the private sector. This automatically tends to involve making the direct beneficiaries pay according to the "benefit principle," because water use is quite specific and chargeable.

Some Indian people have the advantage of an agriculture based tribal culture, so they can be expected to be able to handle "life under the ditch." Within many Indian communities there is also a strong social cohesiveness, communal spirit, and controls. Exploitation of surface and underground water supplies, however, are almost always controlled by non-Indian law. Most, if not all, easily de-

⁷ Private projects may fail as well, but society does not bear all the costs since part of the failure is accounted for by the destruction or loss of private capital or of the private labor embodied during construction.

⁸ Let us call such goals welfare enhancement.

⁹ By this test, much American "reclamation" experience has been a failure. The same can be said for many projects in other nations.

veloped water sources are gone. No group in the drier areas of this Continent, no matter how large, can develop water except at high cost and through the imposition of even more complex technological "fixes." This means that development will normally be high cost, and resulting productions will not be cost effective. There may, however, be welfare reasons for water development. Either way, a subsidy is required. Perhaps these subsidies can be provided by the bands or tribal councils, and in this sense, self-reliance can be presumed. But generally those who are recipients of subsidy are not really independent. Only in carefully thought through special situations should water development be expected to help directly achieve self-sufficiency.

There is some question as to whether agriculture can be the engine of economic development on the majority of reservations. Perhaps there are some indirect possibilities for developments. For example, it has been suggested that Indian people might be able to sell adjudicated water rights for prices that are more lucrative than subsistence utilization. In such cases, water rights should only be transferred on a renewable lease basis as in the case of any other renewable resources.

My conclusion is, that in terms of water resources, with the exception of single forms of water development, self-sufficiency is going to be very hard or impossible to achieve.

Lessons From Public Land Management in the United States

by

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Introduction

When asked to prepare a paper for this conference, I was assured that expertise in Indian policy was not a prerequisite; a paper relating to the lessons learned from public land management would be useful. My own expertise lies in the fields of public grazing, timber and coal lands management. Indians own significant amounts of each of these natural resources. There may in fact be some important lessons from public land management that can be applied to the management of natural resource endowments on Indian lands. In particular, the evolution of communal versus private property rights may be an important influence on the efficiency of natural resource development.

Much of the public lands in the U.S. are managed by the Interior Department, which also exercises trust responsibilities for Indian affairs. The histories of public land and Indian policies are closely linked. The Bureau of Indian Affairs (BIA) has some of the same bureaucratic and organizational elements as are found in public land agencies. Indeed, in some cases the BIA turns to these agencies to perform key management services.

I have found this paper an interesting opportunity to put forth my thoughts and observations. Having worked on public land problems for almost ten years now, I have many views and perspectives. This paper seemed an appropriate occasion to review, in a summary, what has been

learned over the long history of these lands. The reader interested in a more detailed development of the arguments can consult a large literature of public land management.

A Story in Property Right Evolution

Over the 200 year history of the public lands, Congress has enacted numerous laws which sought to implement the favored policies of the time. Yet in reviewing this history, I found that Congress has almost never been able to achieve the objectives it sought. Few other areas of public policy illustrate as well the "law of unintended consequences." As Friedrich Hayek would put it, the "spontaneous evolution" of social institutions has almost always defeated the well laid plans of legislators and social theorists. Much of the spontaneous evolution of public land institutions has involved the creation of new property rights.

For the first half of the 19th century, squatters simply invaded the public lands, frustrating the congressional objective to raise large revenues from competitive land sales. The Federal Government found itself compelled to bow to informal systems of property rights set up by squatters. The final capitulation was the Preemption Act of 1841, which formally recognized the settler's right to establish property rights to land by moving onto the land and taking possession. The Homestead Act of 1862 then simply made this process free of charge.

However, the worthy objectives of the Homestead Act were then defeated by a major miscalculation on the part of the Congress in limiting homesteads to 160 acres. While 160 acres was reasonable in the midwest, it was wholly unsuited to the arid conditions of much of the Rocky Mountains and the far west. In these areas, far larger acreages were required to form a viable ranching operation. Public land historians have generally concluded that the Homestead Act was a major failure.

Just as squatters had ignored earlier public land legislation, westerners learned how to get around the major deficiencies of the Homestead Act, as well as most other public land laws of the time. The late 19th century was a period of massive fraud and illegality on public lands. Indeed, extralegal activities were so pervasive that they became a way of life — acceptable even to the most respectable westerners. It was their way of dealing with laws imposed from above, that were simply impractical and unworkable.

The final result was a massive transfer of public lands into private ownership. This private ownership proved critical to the development of the west in the 20th century. Public land disposal did not work out as planned, instead of 160 acre forest plot, for example, the Weyerhaeuser Corporation eventually accumulated huge acreages of timber land. But in the final analysis 19th century "privatization" was a big success.

The Congress, however, often focussed more on the corruption and abuse of the public land laws, than on the successful achievement of widespread transfers into private ownership. Partly because 19th century disposal was such a rough and ready affair, the dominant trend of the 20th century was the retention of public lands in public ownership. Public land retention, however, has often proved to be more in terms of form than in terms of substance. Numerous private individuals and groups have sought to establish claims on the use of the public lands and to make their claims as stable and permanent as possi-

ble. Where they have succeeded, the result has been to create de facto private property rights to the public lands, even while maintaining the form of public ownership.

Individual ranchers, for example, have effectively established rights to graze particular areas (allotments) of public lands. The Taylor Grazing Act of 1934 is often said to have ended homesteading on the public lands. But this mistakes the stated purpose for the real result. In fact, as carried out, the Taylor Grazing Act has virtually amounted to a new homestead law for western grazing lands. Unlike the original Homestead Act of 1862, the Taylor Act did not contain acreage restrictions, and could be feasibly applied on the low-productivity rangelands of the west.

The Wilderness Act of 1964 set aside specific lands for the benefit of wilderness buffs and other recreationists. Groups such as the Wilderness Society or the Sierra Club effectively have more power over the management of wilderness areas than do the Secretary of the Interior or the Secretary of Agriculture. The power to control use is the essence of a property right. Thus, in some respects, wilderness areas can be seen as the de facto property of the community of wilderness users. The Wilderness Society has proven every bit as adept as the previous generations of ranchers, in making new claims and converting them into property rights on the public lands.

In short, the 20th century has not seen a full cessation of public land disposal. Rather, disposal has continued in a new guise. Instead of wholesale land disposal, we now have the transfer of property rights to the private sector bit by bit.

In 1964 Charles Reich wrote a famous article about the "new property," examining the evolving claims of social security recipients, welfare groups, and others that they had "rights" to receive federal income transfer payments (welfare) or other benefits. Another form of new property has emerged on the public lands, where people come to expect that they will be able to make a certain use of the public lands into the indefinite future.

To be sure, none of the legislation that currently guides public land management prescribes a process of informal property right evolution. Instead, the current legislation sets forth a set of policies and objectives that often go unrealized. The law of unintended consequences takes its toll once again. Public land policy operates in an environment in which there are myths and fictions which obscure the underlying reality.

The Myths of Scientific Management

Not surprisingly, public land policy has closely followed broader social trends. The basic policy objective of the 19th century — to dispose of the public lands — reflected the *laissez faire* attitudes and minimal expectations of the government of that period. In the 20th century public land policy, along with many other policies, has resulted in a much greater role for government. This shift was seen in the decision to retain the national forests and create the Forest Service at the turn of the century. Theodore Roosevelt and others in the progressive movement led the way for this basic change in public land philosophy. The New Deal of the 1930s then moved further along and ratified the approach of retaining the public lands.

Progressive era proponents of permanent public ownership of land argued that the government would do a better job of managing the lands than would the private sector.

Progressives believed that government would be more able to apply new scientific methods and generally to show greater management sophistication. There was great optimism at the time that the application of science and reason would bring on a long-term era of human progress — hence the term "progressive." "Moreover, the powers of science would be enlisted for the broadest public interest, or as Gifford Pinchot put it, "the greatest good of the greatest number in the long-run."

The progressives did not have a specific agenda for the use of the public lands; they were more concerned with means than ends. In particular, expert management techniques should be applied to achieve maximum efficiency in the use of the lands. Indeed, the historian Samuel Hays has characterized progressive aims for the public lands as the "gospel of efficiency." A key instrument for achieving efficient management would be the use of comprehensive planning. The leading experts, using the latest scientific and technical knowledge, would design the plans, management in large part, would confirm its efforts to following the plan.

The concepts of scientific management, however, proved flawed in a number of critical respects. For one thing, science was unable to live up to its advanced billing. For example, recently, we have seen range scientists offering widely varying opinions about the actual trend of range conditions and the long-run capacity for livestock grazing. To be sure, the physical sciences have stood up much better than the social and administrative sciences. The progressive conviction that government administration could be put on a scientific basis was dismissed many years ago by most academic and other knowledgeable observers of government. Many economists have continued to assert that economic science can provide objective methods for deciding the value of competing public land uses, in order to determine scientifically the use combination that maximizes the total social value from the lands. But this remains much more hope than reality. Large differences of opinion are still found among economists, supposedly equally expert, on the values of proposed uses of public lands.

In general, it appears with the benefit of hindsight, that the social sciences made many inflated claims as to their true scientific qualities. Individual social scientists are as much influenced by ideology and personal views as others. It seems to be difficult to exclude these non-scientific elements from the study of social and economic problems. Indeed, some would now even question the goal of removing them. Value-neutral science cannot answer questions of basic values and purpose. Nor may it be possible to separate these questions from the carrying out of the daily tasks of government administration.

Partly because of the inability of science to fill its prescribed role, it has proven impossible to achieve another central progressive aim: The separation of politics and the management of the public lands. Although elected representatives would not presume to tell a physician how to perform an operation, they have no similar inhibitions when it comes to telling public land managers how to use the public lands. In fact, public land management has become thoroughly politicized. Again, few today would argue that it should be otherwise. Public faith in government land management agencies and in professional experts is not sufficient to give them broad independence from the normal democratic process.

Progressive concepts of politics may well have been na-

ive at the time they were put forth. The rewards in the American political system are earned by those representatives who provide for their local constituents. Politicians are not normally reelected for their devotion to the national interest at the expense of local interest, no matter how scientifically the national interest can be identified.

Although the scientific management philosophy has been undermined by the historic record of public land management, no other philosophy has emerged to take its place. As a result, the forms of progressive ideas are still maintained, although the substance is now much different. Public land management today operates under a variety of myths and fictions that are legacies of the progressive era.

One myth is that there are objective principles to guide the decisions of public land managers. The central principles of public land management are typically said to be multiple-use and sustained-yield. However, while preserving the form of some guiding principles, multiple-use and sustained-yield are so lacking in content as to allow almost any interpretation. Multiple-use decision-making is essentially decision-making according to administrative discretion. The public land agencies have sought to give sustained-yield some more specific content, directing that timber harvests should follow an "even flow" policy. However, an even flow timber harvest policy produces obviously unreasonable results; attempting to defend them has tended to undermine the credibility of the public land agencies.

Another myth of public land management is that future public land uses will be, or even can be, comprehensively planned well in advance. Experience has shown that comprehensive planning is a utopian concept which ignores the incremental nature of real world decision making. The public land agencies are continuously revising their planning processes in hopes that future decisions may bear some closer resemblance to previously prepared plans. However, this hope is very likely illusion; formal planning has fallen far short of expectations almost everywhere it has been tried. For example, despite the requirement that zoning should be based on comprehensive local government plans for land use, this mandate has been successfully met almost nowhere.

Perhaps the overriding myth of public land management is that the public lands are actually managed in the general public interest. The fact is that the average national taxpayer derives little benefit from the public lands. Most activities on the public lands involve much higher management costs than they generate in government revenues. Of the revenues received, a major share is then turned over to state and local governments or to special accounts for the benefit of groups of public land users. When the recent Sagebrush Rebellion generated proposals to transfer federal lands to the states, the elder statemen of the west counselled against this move. They recognized that western states already received much of the public land revenue and would only acquire new management costs. Similarly, existing public land users have shown little interest in purchasing public lands. They are better-off with a status quo, that combines federal ownership with de facto private rights to use the public lands.

The public lands can be considered a vast pool of natural resource wealth that is available to those most skilled in capturing it. Just because the lands are public does not mean that private interests cannot lay claim to them. Indeed, where there is an absence of private interests, a vac-

uum exists that is likely to be eventually filled. A new private interest is likely to come along to establish a strong new claim on the use of public lands.

To this observer at least, much of public land policy today seems to involve a free-for-all to assert new user claims on the public lands or to maintain old claims. The tools in this political competition for user rights include ideological stances, constituency pressures, campaign contributions, bureaucratic maneuverings and other interest-group tactics. Unlike the 19th century, there appears to be little overt corruption or illegality. But the result bears scant resemblance to the progressive vision of the expert public land manager, who advocates determining public interest through scientific methods and then implementing this interest.

Inefficiencies of Public Land Management

Ironically, perhaps the greatest problem in current public land management is its failure to achieve the one value held in highest regard by progressives, that is, the value of efficiency. Indeed, many observers have found that efficiency is often the first element to be sacrificed in reaching political agreements among the contending users of public lands. Interest groups find that they can settle their differences by agreeing to pass the costs on to the national taxpayer who is unrepresented.

Scholarly research on public land decision making shows that the efficient use of resources is seldom a main criterion. As a result, there are widespread inefficiencies, including the allocation of public land to lower value uses. In most cases, the investments or costs substantially exceed the benefits. Investments are made in one place when other places offer higher returns. We often conserve public resources when their immediate productive use would be more appropriate. We also put into production resources that would be better preserved for the future. These types of actions are inefficient and costly to the public.

Marion Clawson is widely regarded as a leading student in the field of public land management, and has a career spanning 50 years. Stimulated by his early 1970s service on the President's Advisory Panel on Timber and Environment, Clawson by the mid 1970s was coming to the conclusion that major inefficiencies in public timber management were not isolated incidents, but were in fact pervasive. In a widely noted 1976 article in *Science Magazine*, Clawson labeled Forest Service management as "disastrous." In a further 1976 study he stated that "a resource management record of this kind is unacceptable for either privately or publicly owned natural resources." "More serious than the record of the recent past, is the danger that the future performance will be equally bad unless positive measures are taken to change it." Clawson found that the political orientation of the Forest Service had led it to promote various popular sounding but economically irrational objectives. Other students have confirmed that public timber managers tended to hold excessive inventories of timber, to delay the harvest age for timber too long, and to misallocate investment funds. Particularly disturbing, was that these analysts also found that public land managers sometimes were harvesting large amounts of uneconomic timber in prime recreational areas, thereby achieving a timber harvest result that was both economically inefficient and environmentally damaging.

Criticisms of the Bureau of Land Management (BLM) have focused more on the expansion of the BLM administrative staff and the high costs involved which are far in

excess of the rangeland values at stake or the revenues collected by the government. Depending on assumptions made, the BLM spent somewhere between \$100 million and \$200 million in 1981 on grazing management. Yet, the grazing revenues received in that year were only \$25 million. As the BLM has asserted greater authority over grazing use, this has diminished the security of rancher tenure, making rancher investments on public rangelands less likely, and at the same time, increasing the need for public investment. One student, Gary Libecap, identifies the "fundamental flaws" of the current institutional arrangement for managing federal rangelands. That arrangement relies on bureaucratically assigned use rights which "encourage inefficient land use for a number of reasons."

Like the management of BLM surface lands, Forest Service land management operates at a large deficit. In 1980, the total costs of Forest Service management were \$2.1 billion, compared with total revenues of \$1.3 billion. This deficit was particularly striking, because the Forest Service obtained much of its resources from natural processes, not involving any expense to the Forest Service. For example, most timber currently harvested comes from "old growth" forests on which little money has been invested.

Most recently, Clawson in 1983, re-examined his earlier views on public lands. In *The Federal Lands Revisited*, he reaffirmed his 1970s conclusions that public land management exhibits major inefficiencies. As Clawson put it:

Anyone who has been a member of the federal land managing bureaucracy, as I have, or one who has observed rather closely the operations of the federal land-managing agencies, as I have, can agree with much of the criticism regarding inefficiency in these federal agencies. There are indeed many pressures that result in inefficiency, and few rewards for efficiency.

Lessons Learned

As noted above, the debates over public land management have tended to reflect the broader social debates of the times. This is true once again in the 1980s. The track record of public land management has raised questions about the basic assumptions under which the lands were retained in federal ownership. Proposals have emerged to transfer the federal lands to the states or to sell the lands to the private sector. This parallels a much broader re-examination of the general relationship between the Federal Government and the states, and between government and the private sector now taking place.

Perhaps two lessons stand out above all in reviewing the historic record of public land management. The first is the difficulty of reconciling economic and political modes of operation. The second is the strength of the desire for more secure property, which is often able to overcome all obstacles.

The public lands were retained in federal ownership with the intention that they be managed by non-political experts. Not surprisingly, this proved to be impossible in the American political system. Yet, the structure of American political institutions is not conducive to decisions that promote effective and efficient management. There are so many voices and so many independent powers that public land policy is often reduced to the least common denominator. Before any policy can be adopted, the Legislative, the Executive, and Judicial branches must all agree, then, the bureaucracy must be able to understand and implement the resulting policies.

Recently, students of the public lands have begun to search for new institutional mechanisms to provide a greater barrier between land management and politics. One old proposal that has been revived is the idea of a public land corporation, which would be insulated from the political process. Another old proposal is to sell some of the lands outright. Given the strong political opposition to outright disposal, a third possibility is long-term leasing, under which public land users would have substantial latitude to manage the lands themselves. Leases could be issued to recreational user groups, as well as to ranchers and other traditional commodity users.

The development of allocating stronger private rights to use of public lands may occur anyway, no matter what the official policy. The history of the public lands suggests that the desire for more secure property will eventually win out, one way or another. The disposal of public lands in the 19th century was not driven so much by government laws and regulations, as by the actions of many individual settlers and other public land users. In the 20th century, entrepreneurs have focused their efforts more on the political process in order to win greater security for their existing land uses. The results are effectively a new form of politically created property, such as grazing allotments or wilderness areas.

Given the strength of the desire for property, it would seem to make sense to channel this drive more explicitly. This would involve the creation of new mechanisms and institutions whereby property ownership can be acquired. The current system may well achieve the same ultimate end of property ownership, but the transaction costs and frictions it imposes in the intermediate evolutionary steps seem unacceptably large.

I have not tried to address Indian concerns directly in this paper, but have more or less, reflecting on my own lack of detailed knowledge on the subject. Based on my limited knowledge it seems that two issues are raised for Indian affairs by my discussion. First, is there a similar problem in separating economic and political responsibilities? Do Indian tribes need to look for new mechanisms to separate tribal economics and tribal politics? Second, should Indian tribes look to new tribal property right institutions as a way of promoting more efficient resource management? Should they encourage greater individual responsibility through stronger individual property rights?

The Determination of Indian Water Rights in The United States

by

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Native American rights to the use of water are supported by a formidable body of law which was accumulated between the Winters Case in 1908 and *Arizona v. California* in 1964. However, an increasing population and corresponding demands by the dominant society have occurred and Indians have been subjected to an erosion of their rights in recent years both in the courts and through the policies of the Federal Government.

Negotiated Indian water rights settlements are being

encouraged as an alternative to time-consuming and costly litigation. Settlements, when achieved, have been treated as being of prime benefit to the Indians rather than to the non-Indian (who is allowed to continue his invasion of Indian rights while a new or supplementary source of water supply has to be provided to the Indian). As a final insult, the funds required to implement the settlements are taken from the Indian budget.

Aboriginal Rights

In the body of Indian law that has developed since the Winters Case in 1908, the original concept of Indian rights has been built upon so that it covers future as well as present uses. Indian rights are not lost by non-use and Indian rights can be used for all beneficial purposes.

Some tribes have been successful in obtaining aboriginal rights. This is difficult to acquire because there must be archaeological proof of continued use and occupancy. The tribes that have been successful in getting an immemorial priority for their rights (or a portion of their rights) have done so under the test of the Winters doctrine. The date of priority is normally the date of establishment of the reservation. This has worked well in most states, but becomes difficult in places like New Mexico where Spanish and Mexican people were irrigating a long time ago.

Measures of Need and Native Claims

One historical basic measure of need was the irrigable area. The irrigable area being proved on the basis of the physical and chemical characteristics of the soil, including both the physical and the engineering feasibility.

Then came the *Arizona v. California* case where the term "practicably irrigable" was adopted. However, the term was never defined. The Supreme Court then adopted the term, but they did not define it either.

People have started perverting the definition in my opinion. The perversion has been performed by people who were supposed to be on the Indian side. Some attorneys just could not believe that the term did not have economic connotations. This started an evolution. They started out by saying that there might be an economic component, then they said maybe, then possibly, and then probably. Now you hear them saying its firm and its the law of the land. This is just not so. The Supreme Court has never ruled on this issue.

In the recent reopening of *Arizona v. California*, the court ruled against the Indians. The judgment was not on the basis of economic feasibility or proof, but on the fact that there had been twenty years reliance on the interlocutory decree and they were not going to change what everybody had been using to build their economies.

I believe the Indian claim has a reasonableness to it. It should be based on a judgment of the Indian owners. It should be based upon the best advice they can get from those they trust. All physical and social factors should be considered, and they should sit down with their lawyers and lobbyists and arrive at a judgment call.

I also believe that the benefit-cost ratios in the Indian water rights claims are wrong. These should be based upon factors such as cropping patterns, crop yields, crops grown, crop prices, and of course the energy costs that are facing them.

Erosionary Factors to Indian Rights

In recent years a number of factors eroding Indian water rights have resulted from court decisions and changes in Executive Branch policies. The Departments of Justice

and Interior, in their interpretation of "practicably irrigable," are imposing economic feasibility on the Indians. They are now insisting on soil standards, that have economic constraints built into them. There can only be one result that can flow from this and that is the reduction of the Indian claim.

The McCarran Act of 1952 said that federal rights could be adjudicated in state court proceedings, if an entire river basin or watershed was being adjudicated. The result is the establishment of a legal principle that would subject Indian rights to state proceedings. It is accepted that many states are generally hostile to Indian claims and Indian rights, because of plain old politics and the numbers of voters in Indian country.

Another erosionary factor is the continued attempts at limiting the scope of Indian rights. Traditionally it had been maintained that Indian reservations were created and maintained as tribal homelands. Homelands were to be used for beneficial purposes. However, in a recent U.S. Forest Service case (*United States v. New Mexico*), it was ruled that forests were created to grow and harvest trees and were not put there to provide for fish habitat or for recreation facilities. The same people who perverted "practicably irrigable" started to immediately apply that concept to Indian reservations. They are stating that the use of Indian reservations must be limited to the specific purpose for which they were created. This would be a very limiting factor.

Of major significance is that the United States insists that they do not have any conflicts of interest, when they attempt to represent Indian interests in court. Take the Black Feet, which are located on the Missouri River, for example. There are National Parks involved, there are fish and wildlife interests, as well as downstream reclamation projects. The river is controlled by big dams, and the U.S. Corps of Engineers have power and navigation commitments. There is also an International Treaty with Canada on the Milk River. When Justice is pressed now, the comment is that they have no "disabling" conflicts.

Litigation

There has been a sudden mushrooming of Indian water related litigation cases. There are now over 50. Everybody is an Indian water rights expert these days. There are two recent significant cases in Washington that bear mentioning. The Chamakaue Creek case of the 9th Spokane Circuit Court of Appeals, and the Walter or Colville case.

The Chamakaue case made two points. The first being a right decreed for instream flows for Indians for fishing and aesthetic purposes. The second indicated the State of Washington had the authority to regulate the non-Indian water uses on the reservation. This may cause some problems.

The Walters case is frightening. A District Court Judge ruled that a non-Indian has a successor interest in an Indian water right. This interest was an expanding right and the water being used at the time passed out of Indian ownership and thus would become subject to State law, the appropriation doctrine, abandonment, non-use, and failure to exercise due diligence. If this decision is not overturned by appeal, a precedent will have been set with major adverse implications to the U.S. Indian community.

Constraints to Water Development

Why has not resource development occurred faster on Indian land? There are a number of reasons for this. Some of the reasons are accidental and some were by design.

There is a committee problem because Indian water development funds are included as part of the Bureau of Indian Affairs budget. Thus, water competes with schooling, welfare, policy services, and roads. The Bureau of Reclamation and the U.S. Corps of Engineers go directly before the Subcommittee on Public Works. As a result programs having less merit than those supported by BIA are often funded.

Another constraint is that other agencies have "subsidies" that cannot be applied to Indian requests. The Bureau of Reclamation and the U.S. Army Corps of Engineers can obtain write-offs in project proposals such as flood control, recreation, fish and wildlife, and reclamation. Thus, these agencies have advantages when competing for funding, the BIA and the Indian people do not have.

The Future

In future the negotiation arena will be critical. Take the Western Regional Council for example. It is composed of mining interests, gas interests, timber interests, and banking institutions. They have been lobbying hard with anyone connected with Indians, water negotiations and the Department of Interior. There are concerns, that unless the Indian leadership understands fully the long-term implications of the negotiation process, they will end up as losers.

The western Governors also have their eye on Indian water, which is the only remaining unallocated water in the west in most instances. Other competing water users are becoming increasingly concerned about the consequences of potential Indian water resources development. The fear is that if the Indians use what is theirs, everybody else will be in trouble. The option of "do nothing" is no longer a practical or advisable alternative. It must be remembered that it is extremely tough to get back a water resource after someone else has established an economic dependence on its continual use and access.

In summary, I maintain that the Indians had better circle the wagons, because if they do not they are going to get picked off one by one. The ones that are not picked off now will have to live with the precedents.

Development of Northern Ute Water Resources

by

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Water resource development on the Uintah and Ouray Reservation in the State of Utah may not be appropriate. The reasons for this belief include:

- The inability of the Bureau of Reclamation and the Ute Tribes to find feasible and acceptable projects on, or near the reservation.
- Water resource projects may not (author's guess) be a high priority in short-term or long-term tribal goals.

The basic question is then: Why build expensive (and probably unfeasible) water resource projects which may not be wanted?

Background

The Northern Ute Tribe is located on a Reservation sit-

uated in the northeastern corner of Utah State. The Reservation which President Abraham Lincoln established by executive order was an enormous, unsettled block of land, which at this time, encompassed four million acres in the Uintah Basin. Three bands of Utes — Uintah, White River, and Uncompaghe — were established on the Reservation. However, eventually groups external to the Reservation soon began to exert more and more pressure on the Reservation and chunks were chopped off:

- (i) Mining interests got control of a block.
- (ii) One million acres were set aside as a National Forest.
- (iii) The Reservation was opened to homesteading in 1905.
- (iv) A valley just inside the Reservation was used as a reservoir site for one of Reclamation's early water resource projects.
- (v) Individual tribal members sold their allotment to non-Indians.

As a result of these intrusions, the Reservation today looks like a patchwork quilt. The Reservation created by President Lincoln has been reduced from four million to 360 thousand acres (about 91 percent of it has been lost). The Reservation today, however, continues to be rich in natural resources:

1. foremost among these is oil and gas,
2. the Reservation has oil shale deposits, and
3. associated with the land holdings is a substantial water right with a Winters Doctrine right.

Presently it is home for 1,800 affiliated Northern Utes (in order to be affiliated one needs to be 5/8's Ute). Their Tribe, as a sovereign entity, is governed by a six man Business Committee. Two members are elected from each band. It is with the Business Committee that the Bureau of Reclamation works.

Water Resource Developments

The Reservation has a history of water resource development. In the brief discussion which follows I am going to play the devil's advocate a little.

In 1906 the Federal Government passed an act authorizing the construction of the Uintah Indian Irrigation Project. According to a history compiled by the Northern Utes the irrigation project was rejected by the Ute people but was supported by settlers who moved onto the open Ute lands. The Bureau of Indian Affairs hoped it would encourage family farming among the Ute people. The irrigation project eventually covered 80 thousand acres and contained 22 canal systems, which diverted water from all the streams in the basin. No storage facilities were created, just diversions. A program was begun to level, clear, plow, and fence the Indian allotments to get them into cultivation. Tribal funds were used for this purpose. Many Utes who wanted to maintain their tribal group life on the Reservation — hunting and fishing — refused to dig canals or to farm. Others did so but sold the land as soon as they were ready for farming.

In a recent ethnographic report prepared for the State of Utah, the following assertions were made concerning early irrigation projects and the Uintah Indian Irrigation Project:

- Historically irrigation projects have resulted in impoverishing the Ute Tribe in terms of both land and money.
- There is a great bitterness against early irrigation projects.

Thus one could safely assume that the Ute's experience

with irrigation has not been entirely positive. It has been expensive (a drain on the Tribal budget) to maintain, and in the eyes of many has not benefitted the Tribe as it should.

Today, out of the 80 thousand acres within the irrigation project, approximately one-half is owned by non-Utes. Much less than one-half is actually farmed by tribal members.

1964 Deferral Agreement

In 1964, planning on the massive Central Utah Project was in full swing. Part of the project was a transbasin diversion involving the movement of water from the sparsely populated Uintah Basin (the Colorado River drainage) to the rapidly growing Salt Lake City area (the Great Basin). To make the transbasin diversion whole, a four party contract (known as the "Deferral Agreement") was signed by the Bureau of Reclamation, Bureau of Indian Affairs, the Ute Tribe, and the water users. The contract provided for the deferral of the use of certain Indian land to allow approximately 48,000 acre-feet of water to be used in the transbasin diversion. In return, it was agreed that the lands on which the deferral was made would be developed as part of the Central Utah Project.

The basic responsibilities of the signatories to the Ute Tribe resulting from the Deferral Agreement are:

- (1) Quantification of the Tribe's reserved water right.
- (2) Development (or equivalent) of 15,000 acres involved in the deferral.
- (3) Construction of storage facilities on one of the reservation's major drainages.
- (4) Development and construction of a fish, wildlife, and recreation package to mitigate for the impacts of the Central Utah Project on the Reservation.

Potential for Solutions

The State of Utah has ratified the provisions of the Deferral Agreement, including the quantification of the Tribe's water right, through State legislation (referred to as the "Ute Compact") enacted in 1980. However, for the "Ute Compact" to become operative it must be ratified by the United States and the Ute Tribe through referendum of the Tribe's membership. The Tribe has yet to ratify the Ute Compact.

The second responsibility was to be accomplished through construction of the Island Bench Complex, a large 20,000 acre irrigation project. In the 1970s, the proposal was reviewed for the Tribe by a blue ribbon panel of experts and the panel concluded that tribal investment in Island Bench would not return enough to make the investment worthwhile.

The third responsibility to provide storage on a major drainage was to be accomplished by the Unitah Unit of the Central Utah Project. This irrigation project entails a medium sized dam and the development of approximately 8,000 acres of tribal land. The project would complete the development of tribal land with a Winters Doctrine right.

The fourth obligation involved a fish, wildlife, and recreation package which included waterfowl ponds, fishing lakes, and instream flow agreements. This obligation has been partially met, but still much remains to be done. Looking at the four proposed solutions several points become obvious:

1. The benefits to the Ute Tribe are derived largely from irrigation, and the Tribe has not been enthusiastic about irrigated farming.
2. The proposed projects have a high (hundreds of millions

of dollars) construction cost with an initial small return to the Tribe.

3. The projects are not without their environmental consequences (one principal impact is on the salmon of the Colorado River).
4. Because of the economics of the projects they may be difficult to fund.

Present Situation

The Tribe sees water resource development going on all around it. Two units of the Central Utah Project have been constructed to the east and construction is underway on the largest unit, the one involving the transbasin diversion, which is just west of the Reservation. Tribal members have shown me the map. They have pointed out they are bracketed by water resource projects, but have not been included in the major benefits of the Central Utah Project. In many ways, over the last few years, things have been going around in a circle: The Ute Tribe is frustrated because it is not getting major benefits from the Central Utah Project. The Bureau of Reclamation is frustrated by not being able to fund acceptable projects and not getting any direction from the tribal Business Committee.

Hopefully things are changing. The Bureau of Reclamation (at the local level), after spending 1983 planning, decided that perhaps it was time to look at some different (non-traditional) solutions. At the same time, the Ute's lawyers wrote the Secretary of the Interior stating the Tribe's grievances.

As a result of the Tribe's letter, two committees were set up in Washington, D.C. One, a policy group comprised of Deputy Secretaries and the like. The second, a technical group which is to provide background and analysis to the policy group. The policy group is to make recommendations to the Secretary of the Interior by early September. The Secretary is then scheduled to meet with the Tribe and discuss settlement options.

At the moment all relevant groups are developing bargaining positions (i.e. Bureau of Reclamation, Ute Tribe, and ultimately the State of Utah and the water users). Judging by a quick glance at everybody's initial position, the key to working out a solution will ultimately depend on everybody's willingness to compromise. A compromise solution may prove to be less costly to the federal budget and have a higher return to the Ute than the water resource project alternative.

Two ideas currently being considered are: (1) payments to Tribal Development Fund in lieu of water resource development, and (2) providing the Tribe storage in Flaming Gorge Reservoir (a large reservoir located north of the Reservation on the Colorado system). The water stored in Flaming Gorge could be used as the tribes see fit. However, at the present time, it would be difficult to move the water out of the State of Utah, and perhaps, even off the Reservation.

The idea of payments to a tribal Development Fund are attractive from a philosophical point of view. They would allow the Tribe maximum flexibility in determining its future. For example, it could be used to solidify their land holdings.

Many questions remain to be resolved: (1) How much (if any) compensation is due the Ute Tribe? (2) Who will pay (Federal Government, water users, etc.)? (3) How far off the Reservation can the Tribe sell water? The answer to these questions is: "STAY TUNED"! I have been told that there are approximately 40 tribes who are looking at get-

ting their water rights claims resolved. The Northern Utes are near the head of the line.

It is the Department of Interior's stated objective to resolve these claims, wherever possible, through negotiations instead of through the courts.

The Ak-Chin Water Settlement¹⁰

by

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The Ak-Chin Indian Community has achieved a degree of economic self-sufficiency through farming, the traditional endeavor followed by its members in maintaining a livelihood. In doing so, an example has been established on the reservation illustrating the highest and best use of their most valuable natural resources — land and water.

While they have enjoyed some benefits from the income derived from the farming enterprise, their progress has been marked by a difficult struggle over several decades in achieving the current status. The future status of the farming enterprise and the economic well-being of the Community is irrevocably tied to the successful implementation of Public Law (PL) 95-328, the Ak-Chin Water Settlement Act. The purpose of this paper is to provide an overview of the Ak-Chin Indian Community and PL 95-328.

Background

The Ak-Chin Indian Reservation is located 30 miles south of Phoenix, Arizona, and consists of 21,840 acres of essentially flat land. Approximately 400 members reside on or near the Reservation. Geographically, the Reservation is divisible into two main sections, the northwest area and the southeast area. Ak-Chin Village, where most of the reservation residents reside, is located in the center of the northwest area.

About the time of the Civil War the ancestors of the people now residing on the Reservation, consisting primarily of scattered bands of Papago and Pima Indians, were living at Maricopa Wells, Arizona. In the 1880s the land farmed by these people became contaminated with "black alkali," rendering the land useless for farming.

"Black alkali" contamination was quite common in central Arizona during this period and was one of the principal problems of the Salt River Project as late as the early 1900s. When the water table approaches ground level, water travels by capillary action to the surface and evaporates leaving salts deposited on and near the surface. These salts kill crops. The condition may be cured by bleaching the soil to wash the undesirable salts below the level of the roots, provided that the land is not waterlogged. If the land is waterlogged, the salts have no place to drain.

Forced out to Maricopa Wells by "black alkali" these people moved north along the Santa Cruz River until they reached their present location. Prior to the establishment of the Reservation in 1912, they filed homestead applications under the Fourth Section of the Act of February 8, 1887. The government records do not indicate clearly when this occurred, but a total of 105 applications were filed, each for 160 acres. On April 20, 1911, a report pre-

pared by government officials revealed that these Indians were occupying and farming the area south of Maricopa and had no reservation.

The United States responded to their plight by formally establishing the Maricopa-Ak-Chin Reservation by Executive Order on May 28, 1912. One week following the establishment of the Reservation, the United States filed notices of appropriation of waters in the amount of 10,000 acre-feet per annum from the Ak-Chin (Vekol) Wash, and 60,000 acre-feet per annum from both the surface and subsurface flow of the Santa Cruz River. The appropriations were to be utilized for irrigation and domestic use on the Reservation.

Unfortunately, the United States' commitment to provide this water turned out to be another hollow promise made to Indian people. The government failed to take proper action to protect this supply of water. Subsequent non-Indian diversion and upstream use on the Santa Cruz River has eliminated all surface flow of water on the Reservation, and overdrafting of the basin by non-Indians has seriously depleted the Community's groundwater resources.

Economics

Prior to 1946, the entire developed farm land on the Reservation consisted of approximately a section of land. The residents of the Reservation lived in poverty. No efforts were made by the government to help subjugate the lands. Instead, in 1946 the government began a program of leasing Reservation lands to non-Indians for the purpose of developing them.

In general, the leases provided that the lessees would have possession of the land for a ten year period and would develop and farm the lands. In addition to leveling the property, the lessees were to drill wells and make certain other improvements. These improvements were relatively cheap and easy to accomplish because of the flat terrain and sparse native vegetation. In some cases even the minimal improvements that were required, were waived in exchange for very nominal cash payments. Thus, further lowering the development costs to the tenant farmer.

Provisions in some of the leases requiring a share of the profits of the crops to be paid to the Indians were grossly abused. Inquiries into low crop yields on Reservation lands adjacent to non-reservation lands with high crop yields were never investigated. Indeed, crop yields of the land seemed to be a direct function of whether the land was on the Reservation or not. When the leases expired, the value of the lands for farming was no greater than it had been prior to the granting of the leases.

In 1960 the community, realizing that it was receiving a very low rate of return on the use of its land and water resource, decided to embark upon their own agricultural development and began refusing to renew expiring leases.

Creation of the Ak-Chin Farms Inc.

Following these developments the Community Council created Ak-Chin Farms, Inc., the formal business entity that administers the farming enterprise, and decided that they should hire a professional farm manager. While they would have preferred to appoint one of their own members to this post, no one had the education and experience to fill this critical position. Therefore, they sought out and hired an experienced non-Indian who understood all of the complexities of irrigated farming in arid southern Arizona and hired him as the farm manager.

Since they could only farm about 5,000 acres due to the

¹⁰ See previous presentation by Forrest J. Gerard pp. 135-136.

declining water table and excessive pumping costs, they decided at the outset to practice sound water conservation practices in order to make the most judicious use of this valuable natural resource. They were determined to provide employment opportunities for their members through the farm enterprise and related activities. They also saw employment opportunities through tribal government related functions to be supported by farm income.

From these modest beginnings in 1964, when the community's net profit from the farm enterprise amounted to \$21,000, they have emerged as one of the most successful farming entities in the area with attendant benefits to the Community as a whole. The following is a breakdown of profits for preceding fiscal years:

FISCAL YEAR	NET INCOME
1979	\$ 542,000
1980	1,112,000
1981	1,000,000 plus
1982	825,344
1983	890,824

As can be seen, the farm has realized a net return of roughly \$2000 per acre, even though the declining water table and excessive pumping costs have placed a constraint on the number of acres they are presently able to farm. Whereas non-Indian developers were able to farm approximately 10,000 acres of Reservation land when the water table was an estimated 50 feet below the surface, the Indians have been forced to confine their farming operations to about 5,000 acres.

Like most farmers in the area, they look to cotton as the main cash crop while rotating the fields in wheat, barley, maize, and sugar beets.

In terms of employment, the farms average weekly payroll covers 50 to 60 people, 95 percent of whom are from the community. Virtually all personnel employed in tribal government, municipal and community service programs, are supported by income derived from the farming enterprise. All employees are members of the Community. The Council states that any able-bodied community member desiring to work can find employment in either the farming enterprise, or one of the various programs supported from the farm income.

Allocation and Utilization of Farm Income

Upon establishing Ak-Chin Farms, Inc., the Community Council committed prospective income to a two-fold program of (1) improving the quality of life for the members, and (2) upgrading the farm operations. To implement such a program, the Council adopted a formula that provides for an equal division of net income between the Community Council and Ak-Chin Farms, Inc. after the payment of the farm manager's annual bonus has been paid.

The Community Council, over the years, has utilized its share of the farm income as follows:

- (a) Supported Community Council operations. Provided employment for 80 percent of the tribal work force.
- (b) Constructed new homes for Indian community members.
- (c) Built a community centre which offers a wide range of health, education and other community services.
- (d) Purchased special mobile homes for the handicapped and the elderly.
- (e) Acquired and operated a supermarket to provide food

to the community people at cost. Thus, helping to improve their nutritional intake.

The Ak-Chin people have consistently supported the expenditure of the Council's share of the funds for programs and activities designed to benefit the Community as a whole rather than distribute such income through per capita payments.

With respect to the farm's share of income, they maintain an inventory of the most modern farming equipment available, and strive to implement scientific and cost effective techniques. The farm enterprise and benefits accruing to the community was jeopardized by a rapidly declining groundwater table resulting from intensive farming by non-Indian farmers surrounding the Reservation, thus prompting the Council to consider legal remedies.

The Problem

The Ak-Chin Reservation is located in the lower Santa Cruz Basin. As recently as the 1940s, the groundwater table under the Reservation was at a level 40 to 50 feet below the ground. Since that time, there has been extensive agricultural development by non-Indian interests surrounding the Reservation. This development, together with Ak-Chin's farm operations, has depended on the mining of groundwater throughout the basin. This process has literally resulted in the groundwater being drained from under the Reservation, lowering the water table from the 40 to 50 foot level to approximately 400 feet.

It is because of this off-reservation pumping that several wells on the Reservation have gone dry, reducing the farm operations to less than 5,000 acres. It was estimated by the Community that unless remedial steps were taken to correct the situation, excessive pumping costs would force them to cease farming within a few years.

The Community, therefore, considered litigation as a means of recovering damages and to enjoin further off-reservation pumping. The Community's claims for water and injuries to water were based on rights under the so-called "Winters' Doctrine."

P.L. 95-328, the Ak-Chin Water Settlement Act

Recognizing that the Community's several claims against the United States, private individuals and entities, and the State of Arizona could lead to potentially costly, diversive, and protracted litigation. The community leadership has recommended to its congressional delegation that the controversy be resolved through a negotiated legislative settlement.

These efforts led to enactment of P.L. 95-328 which resulted in a commitment from the United States to provide an interim supply of 85,000 acre-feet of water from a well-field on nearby federal lands. Also, within 25 years from date of enactment to provide the Community with a permanent supply of 85,000 acre-feet of surface water. In return for these considerations, the Community agreed to waive its several claims, but reserved the right to sue the United States for failure to fulfill this Act.

Since passage of the Act of July 28, 1978, the community leadership has devoted considerable time, energy and financial resources towards implementation of P.L. 95328. When fully implemented, the Community will be able to farm approximately 16,725 acres.

Through the farming enterprise, the Ak-Chin Indian Community has taken a major step toward the economic mainstream of the Nation. They have very little reliance on federal funds for the provision of governmental and

various social services. This is not to imply that they reject assistance, but their relative financial posture and programs have enabled them to weather the drastic reductions imposed by the administration far better than other tribal groups. Because farming is the strength of their economy, the Community is more concerned today about the price of cotton and other crops produced on the farm, than the level of funding of various federal programs serving Indian people.

Proposed Revisions to P.L. 95-328

As a result of the Reagan Administration's contention that the source of the interim water supply was inadequate, and that the cost of developing such supply was too costly, the Ak-Chin Indian Community, following lengthy negotiations with the administration officials, agreed to major revisions in the Settlement Act. Such revisions are embodied in an agreement-in-principle between the Department of the Interior and the community Council.

In brief, this agreement-in-principle provides for reduced water deliveries in "dry years" (72,000 acre-feet), and when "normal" supplies and capacity are sufficient, the Community may request deliveries of 85,000 acre-feet. The consideration for this modification is the early acquisition of the permanent supply of surface water. The Department and the Community agree that it will be necessary for the United States to acquire 55,000 acre-feet, which when added to the assured supply of water in dry years, will result in a minimum of 72,000 acre-feet.

The Community and the Department have agreed that the terms of the agreement-in-principle must be clarified and then ratified by legislation amending the original Settlement Act. It is further understood that such legislation must be enacted during the 98th Congress. At this writing, it becomes increasingly doubtful that a legislative ratification will occur, given the Department's current pace.

The Future

The United States Government is faced with a serious dilemma regarding this settlement for several reasons. There is an image problem for the administration if there is a breach of modern day Indian treaty. There is another major problem if a self-sufficient tribe is put out of business. Lastly, it is fair to say that damages would be excessive. The Department is obviously anxious to resolve the issue.

There have been important lessons learned. The Ak-Chin Indian Community promised a negotiated settlement. They did it because they were a dry tribe and could not wait for litigation. It is acknowledged that it was an expensive settlement, but not every negotiated settlement need be equated to Ak-Chin because not all tribes are as dry. It is unfair to impose the cost of this settlement on the budget of the Bureau of Indian Affairs. More than just Indians benefit, and there should be a separate budget category.

In retrospect, one mistake might have been, not to insist on holding third parties responsible until the matter was totally settled. This is so because the burden of getting the program implemented has fallen solely on the Tribe. There is also the question of subsidization. It might be fair to say that the farming enterprise is subsidized. A review of the history of reclamation projects, reveals that this has not bothered the Federal Government in the past.

Subsidy or not, the Ak-Chin Indian Community will continue to rely on farming as the main means of securing their livelihood for years to come. That may be some time in the future when they might step back and question whether farming is the most productive means of using their water resource. Therefore, in settling the claim, we are asking for the authority to market the water but not to permanently alienate it, and even then, only with the approval of the Secretary of the Interior.

WORKSHOP DISCUSSION SUMMARY

Agriculture and Water Resources

SUB-THEME #6

The presentations and discussions in the workshop revealed that there have been some outstanding successes in both the United States and Canada in water related agricultural development. Agricultural and water developments have made a substantial contribution to the welfare of both Native and non-Native communities throughout North America. The developments associated with each of these important resource based activities, for the most part, are complimentary. Together they offer great potential for Native people in the future. This is revealed by the successes with the wild rice industry in Saskatchewan, the success with the Ak-Chin farm in Arizona, and the Winnebago model in Nebraska. Together, these developments show that with planning, training, knowledge, and commitment, Indian people can successfully take advantage of such land and water based activities.

Despite some accomplishments, it was noted that there

are more failures than successes in these types of developments. There are many obstacles and hazards associated with water and agricultural developments. These obstacles and hazards fall into two specific categories: (1) there are what can be referred to as the institutional and legal problems, and (2) there are the physical and practical limitations. Within the realm of institutional and legal considerations, it was noted that the perception of private property rights in the context of Native culture can be a major constraint to development. Western European development has been closely associated with individual property rights, which provided the incentive for individual initiative. It is through personal ownership that an individual is assured of the rewards and benefits which accrue from personal effort. This is particularly true of agriculture. Yet most lands on reservations are owned collectively by the band or tribe. Thus, the lack of clearly defined property rights often detracts from personal ini-

tative; it often prevents Indians, both collectively and individually, from using their land as collateral to secure loans or funding.

Institutional and legal problems also are encountered when Indian people attempt to exercise their right to the use of water — particularly in the United States. In the United States, Indian rights to the use of water are supported by a formidable body of law that has been accumulated since 1908. Despite this, Indian people have had trouble exercising these rights in many instances. More recently, these rights have been eroded by court decisions that appear to favour the dominant society. With a growing population, the demand for water is increasing and the competition for water is escalating and generating controversy. There appears to be a general fear that if Indians use what is theirs, everyone else will be in trouble. This has led to a large number of court cases, where Indians are pursuing claims through the litigation process.

Historically in Canada, the water rights issue has not had a high profile, but as water becomes increasingly scarce it can be anticipated that Native water development will become more controversial. The main institutional obstacle to agriculture and water development in Canada has been the lack of appreciation for the need for such development. Government has only recently started to actively support agriculture developments. In cooperation with the Native people, the Federal Government has established agricultural organizations that are controlled and operated by Native people to foster and promote the increased utilization of reserve land for agricultural purposes. Unfortunately, these programs are provincially oriented, operate only in western Canada, and do not provide uniform services.

Government policies, rules, and regulations often inhibit development. The bureaucracy frequently displays a lack of sensitivity in responding to Native needs. Both the BIA and DIAND have difficulties in competing for a fair share of funding to support Native developments. All too often, government employees take a narrow interpretation of regulations, which either prevents, or otherwise impedes, development. Government policies vacillate back and forth so that Native people are unaware of government intentions with respect to particular developments or funding possibilities. Natives argue that policy continuity is essential for long-range planning. They argue that greater flexibility both in terms of policy, and the interpretation of regulations that are designed to support that policy, would provide better scope for Native inspired development. However, such flexibility should not take the form of dramatic shifts in overall policy direction, but rather allow for responses that permit careful consideration of the merit of individual proposals.

Although there are many significant differences between Canada and the United States with regard to the legal and institutional impediments that Native people encounter in water and agricultural development, the same cannot be said about the physical and practical problems. The physical and practical problems facing Indians in the United States are identical to those experienced by Natives in Canada. Reservations usually are located in isolated areas, substantially removed from markets. Thus, the cost of transporting produce to markets often inhibits agricultural development. As well, there is a lack of economically viable sized acreage to establish Native farming or ranching enterprises. This problem is particularly severe in Canada, where the overall size of Native controlled



Luncheon

land is often very limited. However, this is also a concern in the United States because of what is referred to as the "checker board effect."

The major practical limitation to farming development is the lack of training and skills available within Native communities. The complexities associated with modern farming techniques require managerial capabilities, which for the most part, cannot be found on reservations. Over dependence on government tends to hold people on the reservations, which limits their learning experience. There is a need for formal education, job experience, and exposure to enterprises that are operating successfully. Experience has shown, that those wishing to establish successful farming enterprises have to acquire knowledge about industry standards, and marketing requirements, as well as possess the technical ability to plant, grow, and tend crops.

A major focus in the workshop was on practical examples of successful development which appear to be laying the groundwork for independence and self-reliance. There were two excellent examples that illustrate success under somewhat different circumstances. The first is the Winnebago experience that offers an excellent overall practical demonstration of a planned and packaged approach to success. It is a prime example of an Indian success story that is based on a deliberate plan for the future. Included within this plan was a conscious effort to update tribal leadership. This was followed by the establishment of community supported goals and the formal preparation of a strategic plan. The basic approach used by the Winnebagoes was to:

- 1) Inventory the talents and skills required to implement their strategic plan. Those skills that were not available within the tribe, were acquired through the use of consultants.
- 2) The initial funding provided by government was used to establish small, viable enterprises which were used to demonstrate the wisdom of their plan.
- 3) The initial successes, in demonstrating the soundness of their approach, were then used to acquire funding from a variety of government and non-government sources.
- 4) Their approach to development was sufficiently diversified over a number of different small projects to ensure that individual failures would not jeopardize the overall plan.
- 5) To accommodate future expansion, and to increase the size of their business enterprises, they commenced a

process to acquire additional off-reserve land.

- 6) To ensure optimal tribal benefit, and to provide long-term continuity, an on-reserve educational institution was started to meet their future skill requirements.

The main attributes of the Winnebago approach is the emphasis on leadership, tribal support, community-based planning, and building on success. This in fact is a cooperative effort that includes the Winnebagos, government, and the private sector.

The second example is the farming enterprise of the Ak-Chin Indian community. The approach used by the Ak-Chin is an example of a reservation using its land and water to develop a successful business enterprise, despite severe resource conflict problems. Like the Winnebago model, the Ak-Chin approach was to:

- (1) Assess their opportunities in terms of the resources available to them on their reservation.
- (2) Develop a community supported plan with specific goals in mind.
- (3) Start small and build on success.
- (4) Hire talent to compensate for skills not available within the tribe.
- (5) Adopt a set formula for investing the net income earned by their farming operations.
- (6) They have used imagination, and practical demonstration, to acquire the necessary funding to support their operations.

Perhaps, the most valuable lesson learned from the Ak-Chin approach is the way in which they have been able to overcome overwhelming impediments to achieve success. The "black alkali contamination problem," which once rendered their land useless for farming, together with their ongoing battle to acquire the water necessary to support their needs, serve as a positive example of what a Native community can achieve with commitment and tribal support. In at least one other respect the Ak-chin are showing commitment and tribal initiative. In their quest for recognition of their right to the use of water, they have chosen to negotiate a settlement, rather than to seek a legally imposed settlement through the courts.

The discussions in the workshop can be summarized:

- (1) Despite many institutional and technical complexities, water and agricultural development offers substantial opportunities for Native people in both Canada and the United States.
- (2) Water and agricultural development offer the opportunity for self-sufficiency, and at the same time can be used to provide employment and generate income.
- (3) Historically in Canada, the main impediment to farming development has been the lack of concern for such projects within government. This has changed somewhat, as a result of the establishment of government supported, but Native controlled, programs such as the Western Indian Agriculture Corporation and the Saskatchewan Indian Agricultural Program. These two programs should be used as models to develop similar institutions in other regions of Canada.
- (4) In the United States, growing populations, with corresponding increases in demand, have resulted in a substantial amount of conflict over the right of access to the use of water. At least partially as a result of this, recent court cases have resulted in an erosion of what was perceived to be the Indian people's legally established right to the use of water. It can be anticipated that conflicts which center on these rights will escalate in future. This growing conflict over Native

rights for the use of water is something that can be expected to become more pronounced in Canada in future.

- (5) In both Canada and the United States, an essential ingredient for Native agricultural initiatives is the establishment of realistic and achievable goals within the framework of a community supported strategic plan.
- (6) Of increased concern in both Canada and the United States is the question of whether or not the respective Departments of Justice are in conflict of interest when they represent Natives in court. Also it was noted, in this regard, that the trust and statutory responsibilities of government require that both BIA and DIAND act, at all times, in the best interests of Native people.
- (7) Aside from what was perceived as government intransigence, that often inhibited Native development and individual initiative, there are a number of other factors that consistently inhibit Indian development initiatives in agriculture and water. These include: lack of clarity with respect to property rights, geographic isolation, legal restrictions on transactions, lack of economically viable sized land units, vacillating government policies, lack of skills and conflicting goals within the Native communities.
- (8) The inability to acquire investment capital is a problem that restricts Native development initiatives. This inability is partly due to the unfamiliarity that exists between Native people and lending institutions. Partly it is the result of the difficulties that Indian people have in using reserve land for collateral. Part of the problem can also be attributed to the difficulty that BIA and DIAND have in competing for funding with other government programs.
- (9) The Native community, in consort with government, should place greater emphasis on training to develop the managerial, professional, and technical skills that are complementary to the type of development that is deemed appropriate by the Native community on their lands.
- (10) Native government should focus its efforts on creating a healthy and stable business climate on reserves and not be directly involved in business management. In other words, there should be a clear distinction between those involved in politics and those that operate profit oriented business organizations on reservations.
- (11) Those Native communities that have prospered most from the agricultural and water developments, have: (i) established on-reserve linkages to other types of services, such as grocery stores, (ii) focused on development acceptable to the community as a whole, and (iii) used technologies consistent with their own values and lifestyles.
- (12) It is doubtful that most Indian tribes could successfully launch a large-scale water development. Most large-scale water developments initiated by government or the private sector cannot be considered economically successful. However, small-scale water development which serves a variety of purposes (i.e. domestic water supply, irrigation for farming, water for cattle, fish processing) can improve the overall welfare of a community and generate positive economic returns.

CONFERENCE SUB-THEME 7

WORKSHOP OUTLINE

WORKSHOP TITLE:

Arts and Crafts

**WORKSHOP COORDINATOR/
CHAIRMAN/MODERATOR:**

Fred Boden

Director

Native Community Branch

Government of Ontario

Toronto, Canada

RECORDING COORDINATOR:

Gary Besharah

Native Community Branch

Thunder Bay, Ontario

Canada

WORKSHOP FORMAT:

The Arts and Crafts Workshop was comprised of:

Formal presentations, followed by an opportunity for questions from the floor and discussion.



John Yesno leading discussion, Arts and Crafts Workshop

ARTS AND CRAFTS

PANEL PRESENTATIONS

The Distribution of Hides The Marketing of Crafts

by

John A. Yesno
Executive Director
First Nations Artisans Association
Toronto, Canada

and

Paul Wyatt
Indian Resource Policy Advisor
Ministry of Natural Resources
Peterborough, Ontario, Canada

John Yesno

In the past, there have been several attempts in Ontario to organize Native crafts people into a functioning group. All have failed. The blame for this lack of success rests with both the federal and provincial governments as well as with the Native people themselves.

In July 1983, a group of craftspeople got together to form the First Nations Artisans. The intention was to establish an organization to help individual craftspersons produce and market their products. In September of 1983, craftspeople from across the Province of Ontario, assembled to elect a seven member Board of Directors. Each of those elected is experienced in the field. The election of an experienced Board of Directors is consistent with the main goal of the First Artisans, which is to work with artists at the community level.

The immediate objective of First Nations is to increase access to raw materials, to deal directly with artisans, to identify buyers, and to organize a buyer's list. The medium range objective is to establish retail and wholesale outlets. This will be accompanied by a marketing program that focuses on catalogues, posters, educational packages, videotapes and other media material. Over the longer term, it is expected that First Nations will buy a full range of Native crafts.

Although First Nations Artisans purchases mainly traditional materials, it does from time-to-time purchase non-traditional materials, such as beads and duffle, and make these available to artisans. They also distribute "non-value" fur. These are pieces left over from the fur auctions which have little, if any, commercial value. These are distributed amongst the artisans for use as trim on various pieces of craft work.

First Nations tries to help distributors sell and market their craft goods, and encourages distributors to access trade shows and other locations to sell their products. The remote Native artist traditionally has had no ready outlets

for his crafts and has been paid low prices.

First Nations Artisans is also looking to establish a series of management workshops and seminars for members of the Board. Small business courses in areas such as accounting and marketing will also be provided. In future we hope to start publishing a quarterly newsletter, to provide information to our membership on trade shows and organizational activities.

There is an organization similar to the First Nations Artisans in each of the provinces and territories. These organizations share a budget of \$3.1 million annually. To satisfy funding agencies, a very stringent financial and administration control process has been put in place. In addition, there are three working subcommittees. There is a Finance Committee, a Membership Committee, and a Raw Materials Committee. The Finance Committee administers the \$300,000 which is received as its share of the national budget.

Despite the fact that we had sales that were greater than one million dollars last year, we are not self-sufficient. To address this problem we are looking at a number of possibilities. Our membership, which is currently over 400, could be increased. The existing membership fee of four dollars is insufficient. We are also looking into the possibility of negotiating rebates from suppliers. Another avenue might be to increase sales by establishing sales commissions. Still another possibility would be to impose some form of fee on sales to help support the organization. Within the First Nations, we have to be constantly aware that funding from political organizations is subject to regular review, and might not always be forthcoming.

Proper market research is critical to success. Often the craftsperson is not producing to the market demand. First Nations Artisans is currently conducting a feasibility study to identify market demands, and generate information on what is being produced. Liaison people are required to assist in matching demand with production. This may be a problem at the community level because of artistic independence.

Paul Wyatt

The seventeen year old, Ontario Hide Collection Program is financed through an Ontario, Canada Resource Development Agreement. The distribution of funds from this Agreement is undertaken by a tripartite committee composed of representatives from the Ontario Ministry of Natural Resources, the Federal Department of Indian Affairs and representatives from Native organizations of the Province. The demand for funding has traditionally exceeded the supply. The great majority of projects funded under the Agreement are community initiated. There are currently 27 projects in the \$10,000 to \$20,000 range. The Hide Collection Program is funded at the \$100,000 level,

which covers the entire Province.

Hunters are asked to skin their animals and bring the hide to a Ministry of Natural Resources office. A baseball hat designating him a successful hunter is given in exchange. Approximately 15,000 hides (9,000 deer, 6,000 moose) were turned in during 1983. This represented roughly 68 percent of the hides from all the animals shot in Ontario that year. The district offices of the Ministry of Natural Resources also freezes and salts hides. Some are distributed free to communities for home tanning, but the bulk are tanned commercially. The tanned hides are then returned to First Nations for distribution to the crafts people.

There are a number of concerns associated with the Hide Collection Program:

- **Treatment:** The hides need better treatment by both the hunter and the Ministry. There are cases where hides have been badly stripped from animals, and where the hides have suffered deterioration because of inadequate salting or freezing. Because the hunter takes a while to deliver the hides to the district offices, the hides can be in poor condition by the time they are received. There is a need to communicate with hunters so that they understand the total process and how the hides are to be used. It is desirable that a procedures brochure be printed, but there are 200,000 hunters and it is too expensive to send one to every licensee.
- **Shipping:** The tannery cannot keep the hides frozen. They need to be salted if they are to remain in storage for any length of time.
- **Distribution:** First Nations have no control over the number of hides that they handle. Only when First Nations receive the invoice from the tannery do they know the numbers. At present, there are thirty distribution points in Ontario, all of which are owned or managed by Indians. First Nations add on 30 percent of the cost of the hides to pay for the overhead. Sometimes there are sensitive issues involved. Specialty programs for Native people are not always popular.
- **Cash Flow:** The tannery will not release hides until payment is received. Unfortunately most of the orders are very small, so there is a minimum purchase of 200 square feet. First Nations Artisans is thinking of establishing five or six collection spots, which will have the responsibility for grading the hides. All hides sold are graded at the factory. Kenora is the only location where grading is possible at present.

This Program has worked well over the years in spite of the problems, and we hope to make it work better in future. The Ministry of Natural Resources is willing to help get a Hide Collection Program started in any other province that indicates that they wish assistance.

Economic and Modeling Potential of the Arts

by

Tom Hill
Curator

Woodland Indian Cultural Education Centre
Brantford, Canada

To understand the arts and crafts industry it must be placed in perspective. It should be understood that there are three traditional areas of Native art: The ceremonial arts of former times, the crafted arts which are commer-

cialized and created for today's market, and the fine arts. The demand in the Canadian market is overwhelmingly for craft art not ceremonial art. For there to be a full revival of Indian arts in Canada, there must be a recognition by the buying public that all three basic forms of art are valuable and worthwhile. This may be difficult to accomplish, because the Indian people cannot control what happens outside their communities.

There are other concerns which relate to the development of Native art in Canada. Band councils often are convinced that the arts are not a high profile activity and there is no real payoff. They also see other organizations as competitors. Non-Native art institutions consider that Native centres have little credibility. They are sometimes jealous of the funding Native institutions receive, and like the band councils, consider them serious competition for the limited funds that are available.

There are significant unresolved questions about the role the Native institutions should play in developing the potential of Indian art. What should the respective roles be for Native art galleries and other institutions such as the Art Gallery of Ontario, or the Royal Ontario Museum? State galleries must assume the responsibility for taking the arts to remote areas, because Native galleries just do not have the resources. However, state galleries are not motivated, staffed, or controlled by Native people. What we have to do is persuade these major galleries to help us sell our crafts in remote areas. Indian art and cultural organizations have to be more active in rural areas to revitalize interest in all traditional art forms.

Governments often want Native institutions to be all things to all people. This is the dilemma of the Native Cultural Education Centres. These centres were created about ten years ago by the Secretary of State, and were conceived as purely cultural and educational centers for both Natives and Métis. Politicians moved the program to the Department of Indian Affairs to use up the space created by the closing of residential schools. It was good press for Indian Affairs, as it appeared to show that the Department was not trying to acculturate. The terms of reference, or objective, for the program was initially very broad. Therefore all across Canada there were variations to reflect local realities. Unfortunately, the centers' accountability is not in the communities, but rests with the funding agencies. The centers are accountable to communities for the program, and to the funders for money. This situation must change. We must negotiate for change with the funders, but first we have to do a community assessment to determine what the needs are.

Out of the Past and Into the Future the Role of the Ontario Arts Council in Developing Native Art

by

Walter Sunahara
Community Arts Development Office
Ontario Arts Council
Toronto, Canada

In 1978, the Ontario Arts Council had no Native arts and crafts policy. As a first step to correcting this situation, the Council decided to identify the needs of the Native Cultural Centers in Ontario. Community needs were

identified, programs were defined to meet these needs, and initial funding priorities were assigned. Crafts became the focal point of this effort, because of its economic potential, and because the Council felt it could have some immediate positive impact. Traditional crafts were defined as crafts which utilize the earth's natural material such as leather, wood, and stone. Contemporary crafts are crafts which utilize man manipulated materials such as fabrics.

It was decided that we would sponsor regional conferences to define needs and priorities. Much had to be done with various groups to ensure local support. Each conference had a planning committee which included local people, thereby ensuring that agenda items of local importance would get prominence.

The first conference was held with the North American Indian Travelling College in an old lacrosse stick factory. This conference and each subsequent conference, had its own local colour. At this particular conference the North American Indian Travelling College promoted wood, leather, furniture, and basket making of black ash. At the Timmins Conference there was emphasis on raw hides and in the Hide Collection Program of the Ministry of Natural Resources. Other topics of interest included a home tanning workshop, moccasin production, quality control, and the role of the wholesalers and retailers.

Another conference was held in the Quetico Centre, and there, the major topics were silk screening, fur knitting, framing of pictures, print making, etchings, embossings and a show of supplies. The Sudbury Conference had a prime focus on trapping, skinning, and quilt making. At a subsequent conference in Brantford, attention was given to silversmithing, stone carving and leather goods.

Everyone attending these regional conferences seemed to want a provincial conference. Therefore, a provincial conference was held in June, 1981 at the University of Toronto. Craftsmen identified their main interests. These included trade fairs, workshops on specific crafts, alternative sources of raw materials and sales techniques. Educational sessions were held to: (a) review how best to approach the quantity versus quality problem which faces most craftpersons, (b) how to discourage junk crafts, and (c) how to identify fakes. Special attention was given to a developing price standardization, and developing supply directories. A networking system was also discussed.

The Ontario Arts Council sponsors Native shows where the contestants' submissions are judged. The winning exhibits are sent on a tour of small communities. The winning exhibits are then housed in public galleries throughout Ontario. In November, 1982, such a craft show was held. On opening night there were about 4,000 people. Various centres brought in traditional foods from their areas. There were performances by several Native artists, social dancing, and a sale of crafts. It was a remarkable example of good cooperation between agencies.

Workshops often provide a process for recovery of craft skills which either are lost or need improving. The Ontario Arts Council pays for the instructors. Past workshops have been funded in subjects such as moose hair tufting, porcupine quill dyeing with natural dyes, bark biting, traditional clothing, and quilt making (especially in the areas of technique and designs by the Native people).

The Ontario Arts Council has developed a range of beneficial initiatives for the Native community:

- Assistance can be obtained by individual artists and craftsmen for doing exhibits anywhere in the world.

- Project grants may be provided for work to be done in the next fiscal year.
- Grants up to \$4,000 can be given to crafts people. Competition is very heavy, and only one in five can obtain a grant.
- Grants can be provided for creative artists to visit schools. Seventy percent of the artist's fees are paid by the Ontario Arts Council, and 30 percent is paid by the school. These grants cover transportation and accommodation. An additional \$200 can be provided for artist supplies. They must stay five full days at the school. It may be any form of art, which must first be approved by the jury.
- An "On Tour Program" is underway which helps communities to hire artists, usually performers, for local performances. These must be Canadian artists. Up to \$1,000 may be paid to the community for any losses which they incur. The money for this program is rarely utilized.
- The Council supports the Association for Native Development in the Performing and Visual Arts, which is a summer school for promising Native performers. The staff of this Association is now virtually all Native, and they are involved in writing their own plays and making films. The indigenous Theatre Celebration was coordinated through this organization, and involved Indigenous Theatre groups from thirteen countries around the world.
- The Ontario Arts Council supports other Native theatre groups: including the Northern Delights, Native Earth, and To Touch the Earth.
- The Council also supports touring Native art exhibits such as the Manitoulin Artists.

The major concern of the Ontario Arts Council is that exhibits get to the small communities. This year the Arts Council sponsored a bicentennial conference that was titled "Spirit of Thanksgiving." A spiritual place, called Birch Island, was chosen for an Elders' Conference, Family Day, Ecumenical Day and a Pow-Wow. The event was well photographed and corporate buyers and collectors were invited.

Other exhibits such as "Best of Our Collections," quilts, and beadwork by Beatrice Showanda and works by Benjamin Chee Chee, were available for viewing. There were three large paintings created that covered a 360 square foot area. The Arts Council donated the canvas and the paint. The artist was to create a work for that particular event. There was a "hands-on" workshop, and pottery, silk screening, quill work, cornhusk dolls, and stone sculpture were created. There were also seminars on how to put a portfolio together, and how to apply for grants. Quill basket making, marketing, bookkeeping, promotion and workshops on corporate collections were covered. There was also an artists' panel on new directions, and a trade show that lasted for three days. The highlights were a theatre performance, and a stage performance with music. The artists were given professional demonstration advice, but there were no fees.

It must be stressed that for such a conference to be successful, people must be involved at the grass roots level. This is to ensure that the artists gain from the conference. It gives the artist an opportunity to participate in organizing a conference, and to enjoy directly the benefits of his efforts.

Native Artists in the Theatre

by

Thomson Highway
Native Community Branch
Government of Ontario
Toronto, Canada

The Native theatre movement began only twenty to 25 years ago with Noval Moriseau. Until the 1960s, Native people were governed by the traditions and emotional relationships between people. The contact with western theatre was handled as an intellectual process and, as a result, there were major differences. It is no accident that the Native theatre revival and the present artistic impetus are coincidental.

The whole Western Christian mythology is not enough

for Natives. They live their ancestors' lives as well as their own. As a result, we may be witnessing the birth of a Canadian Indian literary movement. To date, however, few Native writers have emerged. The first hurdle is the fact that for most Native people, English is not their first language. They first have to learn to read, write, speak, and understand English. But reducing Native culture to the written word is not sufficient to demonstrate the richness of the art.

There needs to be more than just books. There is a need to visualize. Artists are recreating the mythologies of the old times through the medium of theatre. Many Natives have felt the need to write or record their experiences even though their management of the English language is limited. The best record is through visual and audio expression, which is difficult to reduce to writing.

WORKSHOP DISCUSSION SUMMARY

Arts and Crafts

SUB-THEME #7

In Canada, between 1971 and 1981, activities such as public theatre, broadcasting and visual arts and crafts contributed about three billion dollars to the Canadian economy and created approximately 200,000 jobs. Over this same period, the number of artists, performers and craftpersons doubled. In spite of this growth, there remains a great potential for further expansion.

Arts and crafts are an integral part of the Canadian Native identity. Traditionally, three areas of art in which Natives have excelled: (1) the ceremonial arts of the past, (2) the crafted arts which are popular in today's market, and (3) the fine arts. If Indian arts and crafts are to reach their full potential, there must be a reunification of these three art forms.

There were several excellent examples of successful Native arts and crafts initiatives outlined during the workshop. After several previous attempts, the First Nations Artisans was established in 1983. This cooperative initiative was put together jointly by the Ontario Ministry of Natural Resources and the Native artists of the province. The primary objective was to organize Native artists in the communities so that they could effectively distribute and market their crafts. There have been some modest successes, but much remains to be done. For example, the First Nations Artisans sold more than one million dollars of arts and crafts last year, but still are not self-sufficient. There is a plan underway to address this problem. Self-sufficiency is something, that it is hoped, will be achieved in the not too distant future.

Another example of success was provided by the experience of the Ontario Arts Council. This Council sponsors Native arts and crafts exhibits throughout Ontario. Working at the community level, the Council offers courses at summer school for promising Native performers, supports the Association for Native Development in the performing and visual arts, and finances touring Native art exhibits. In short, the Council is encouraging Natives to

develop the artistic skills consistent with the traditions of their people. It is helping to expand the popularity of Native arts and crafts among a broader cross section of the general population. Over time the efforts of the Council, should result in greater opportunities for Natives in Canada as a whole.

Other successes mentioned during the discussion, usually centred on the escalating popularity of Native arts and crafts throughout North America. It was noted that the Inuit of the north, the Haida of the west coast, the Navajo of the south, and the Seminole of the east, all have distinctive crafts and arts that are readily recognized, and enjoy great popularity among the public. The problem in the future will not be lack of demand; it will be providing a high quality, authentic supply of crafts to meet demand. Most Native communities have the talent and the resources necessary to take advantage of this lucrative market. But the energies of the Native artists have not been organized or focused in a way that allow Native communities to capture the full range of benefits that can be derived from this industry. Much of the responsibility for this rests with the Native community itself. However, a considerable amount of the blame can be attributed to government, because they often fail to recognize the value of the opportunities associated with Native arts and crafts.

Other factors that were noted as inhibiting the success of the development of Native arts and crafts included the many factors outside the influence of government and the Native community. It was noted many non-Native arts organizations considered similar Native programs as being direct competition for funding. Natives also see non-Native art institutions as competitors for the limited funding made available. Many non-Natives see Native culture centers as lacking in credibility. National art institutions do not give Native art the same recognition, or value, as art produced by other Canadians. Natives are not

directly involved in operating state controlled galleries. Finally, Native arts and crafts are not given the same exposure in rural areas as are non-Native arts and crafts.

Discussions and information in this workshop can be summarized as follows:

- 1) Governments need to recognize the important role that Native arts and crafts can play in facilitating improved economic and social conditions within the Native community. Greater public awareness of the value and dimension of Native arts and crafts will, in turn, improve the Native view of his own self-worth. It will give young Natives a better appreciation of their own culture traditions. It can provide direct benefits at the community level.
- 2) Native community leaders have to recognize the many opportunities that are available as a result of arts and crafts development. In connection with tourism it can be used to improve economic stability within the community. The possibilities with respect to this type of development are unique in the sense that authentic Native arts and crafts cannot be produced by others. Thus, those living within the Native community are the sole suppliers. The investment required to proceed with this

type of development is minimal, and the returns can be extraordinarily high if marketed properly.

- 3) Efforts have to be made to give Native arts and crafts a higher profile in both domestic and international markets. This could be beneficial to the national economy in terms of earning foreign exchange, and to the Native community in terms of diversifying their economic base and achieving independence.
- 4) There is a need for greater effort by individual artists and Native art organizations to improve and maintain the quality and authenticity of the products sold in the market.

The general consensus within the workshop was that Native self-reliance can be advanced through the better organized creation and marketing of Native arts and crafts. Most Native communities in North America have both the talents and resources to initiate such activities. The potential benefits from these activities can be substantial. In order to take full advantage of these opportunities there must be a strong support at the community level, and a centrally organized and controlled marketing and distribution framework.

CONFERENCE SUB-THEME 8

WORKSHOP OUTLINE

WORKSHOP TITLE:

Tourism and Recreation

WORKSHOP COORDINATOR**CHAIRMAN/MODERATOR:**

James R. MacGregor,
MacLaren Plansearch Corporation,
Vancouver, Canada

RECORDING COORDINATOR:

Kevan Tisshaw,
President,
arete Projects Ltd.
Vancouver, Canada

WORKSHOP FORMAT:

The Tourism and Recreation Workshop was divided into three phases.

The first was an overview of Native tourism and recreation from both the Canadian and United States perspectives. The second phase consisted of a series of presentations on successful existing Native tourism and recreation initiatives throughout North America. The third and final phase focused on a series of presentations dealing with proposed tourism and recreation programs.



Kevan Tisshaw addressing Tourism and Recreation Workshop Participants

TOURISM AND RECREATION

PANEL PRESENTATIONS

The Opportunity for Native Tourism Development in North America

by

James R. MacGregor
Tourism Planner
MacLaren Plansearch
Vancouver, Canada

Welcome to the first ever workshop of this kind held in Canada. We have delegates here from across both Canada and the United States, who over the next few days, will be presenting information on tourist related projects and their personal experiences.

The discussion, while not rejecting the negative aspects of Native tourism, will emphasize those projects that have been successful. This emphasis will include a concern for the approaches that have been successful, as well as the difficulties that have been overcome. Most of the projects presented will focus on the cultural aspects of Native tourism in North America, and several of these will center on the basic services that usually are provided as part of the travelling experience. Such services include restaurants, motels, and gas stations. There is no doubt that Native cultural activities, such as music, history, arts and crafts are becoming increasingly popular amongst the general public. At the same time, Native communities, groups, and individuals are showing greater interest in the economic development opportunities associated with tourism.

Native tourism covers all aspects of travel. The traveller learns about the history and heritage of indigenous people, as well as about their contemporary ways of life and even their ways of thinking. Man's cultural expressions, either current or historical, constitute some of the most significant and compelling attractions of any region. Most people are inherently curious. Tourists are very often interested in the lifestyles of indigenous people. Social and cultural events are often among the most satisfying recollections of an individual traveller once they return home. Yet, opportunities to develop a wide variety of authentic social and cultural experiences for visitors have been largely overlooked in Canada, and in many areas of the United States.

Nearly every area has some potential historical or contemporary resources that can be developed into a tourist attraction. Possibilities are often limited only by the imagination and the resourcefulness of planning and development organizations. More elusive, and perhaps less obvious, are the cultural opportunities that deal with people, their historic and contemporary customs, thoughts and

accomplishments. The problem is not so much a lack of cultural tourism opportunities, as it is a lack of organized methodological approach to analyzing an area for cultural tourism development.

Analysis of Native Tourism Development Opportunities

What is needed is an approach, or system, which can be applied generally to an analysis of any area being considered for cultural tourism development. Use of such an approach will help determine the tourist potential of a destination area, and provide guidelines for developing that potential.

Once such a system is available, it becomes possible to make a precise appraisal of what type of attractions would be enjoyable for the tourists who visit an area and to assess what is touristically relevant and specific about the particular area. More to the point, it allows an expert to determine what is unique and exciting that would constitute a tourism development opportunity.

Formulating a methodological approach to cultural tourism development must rest on certain basic premises. These include:

1. An assessment of the social and cultural impacts of tourism on local people. Certain aspects of tourism can result in unwholesome, troublesome and socially disruptive conditions. These adverse effects can be reduced by establishing clearly defined goals and outlining specific programs to avoid such problems.
2. Social and cultural benefits do not accrue automatically as a result of tourism. If benefits are to materialize, specific efforts must be made by planning authorities as part of the tourism planning and development process.
3. Planners must identify problems which could arise among family members, various social groups, and the influence tourism may have on the religious, moral, ethical, educational, and philosophical aspects of local life. This should be done prior to attributing social benefits to a tourism development.
4. The complete cooperation of the Native business community is necessary in order to achieve economic success.
5. Residents must be proud of tourist attractions. Pride in the cultural heritage and contemporary achievements is essential to successful cultural tourism.
6. Native people must be totally involved in the planning of their tourism resources. This involvement should also extend to the implementation and coordination of a project in order to maximize the social and cultural benefits to Native people.

Native Tourism Resource Development Principles

Once the priorities for development of cultural resources have been established by a Native community, and

funds are provided for these purposes, the next problem is to determine how the development should proceed. The following suggested principles should prove useful:

1. The residents and Natives of an area should enjoy their resources as much as the tourist. This enjoyment, and use by local people, should be encouraged as soon as possible after project implementation. The rate of cultural change affects the community as much as the magnitude of the change.
2. The architectural design of tourism structures should be authentic and in harmony with local modes of architecture. Also, such designs should accurately reflect the original themes and not be artificial creations. If additional structures are needed, such as rest rooms or a gift shop, these should be compatible with the original structure.
3. Restoration projects should be carefully researched to ensure, that within practical limits the resulting structures are authentic in every detail.
4. Large-scale projects should not be incongruous or conspicuous, within areas where they are located. Local people should approve, welcome, and enjoy the project.
5. The employment of local people should be emphasized. The project should maximize the potential economic benefits to the local community.
6. Training is necessary for the people who are involved in tourism. This training should be provided in a timely and thorough manner.
7. Fake or cheap craft objects or souvenirs should not be sold. If necessary, special training or schools may be required in order to provide the technicians or craftsmen needed to produce quality products.
8. Souvenir shops should be of high quality and staffed by competent clerks. Packing and shipment instructions for purchasers must be included in staff training.
9. Broadly speaking, any proposal development must identify the optimum carrying capacity of the project. This is determined by the level of maximum enjoyment of the visitors or users. The number of visitors should not exceed a fixed optimum number at any one time.
10. If any interpretation of the resource is needed, then qualified interpreters, having the necessary knowledge, background, and ability is an absolute requirement. Some facility in the appropriate languages is necessary for interpreters. If signs or explanations are needed, then they should be in at least two languages.
11. Written information explaining the attraction should be available to visitors at modest prices. Such information should be printed in as many languages as is practical.
12. Methods of financing tourism developments can take any of a variety of forms. These might include public ownership, joint ventures, government incentives, gifts or even grants.

It is obvious that the use of these principles will not guarantee successful transformation of cultural resources into tourist attractions. A well planned framework can increase substantially the probability of an orderly development of resources. It should enhance the contribution that a cultural tourist attraction will make to the overall development of an area. The identification process can serve to identify potential resources that have not been previously considered. This has the potential to expand the base for development. The matching of supply and

demand should minimize questionable undertakings. The establishment of priorities for development should lead to optimum expenditure of effort and financial resources. Finally, sound development principles should enhance the enjoyment of Native people, as well as the tourists.

Huron Village Pow-Wow '84

by

Claude Guerette
Festival Coordinator
Huron Village, Festival '84
Tall Ships Program
Quebec City, Canada

In association with the Tall Ships Program held in 1984 in Quebec, a major Indian tourism and recreation initiative was undertaken called Pow-Wow '84. A Huron Village was created as the location for the Pow-Wow. Many Native nations cooperated, and over 500 volunteers were involved in organizing the event. The focus of the Pow-Wow was to promote Native values and their way of life.

The Pow-Wow featured arts and crafts from all over Canada, as well as sporting events. There were elders in full regalia, with singing and dancing. There were demonstrations of hunting and trapping techniques, and the exploration of traditional ways of living. There was a heritage museum, as well as examples of adaptations of traditional designs in fashion wear.

The Pow-Wow competed "head-on" with the Tall Ships event, yet was more successful. It had a cultural impact on 180,000 people.

One important factor taken into consideration in the design of Pow-Wow '84, was that tourism is visual, and pictures and images are important. For a successful event such as the Pow-Wow, the key ingredient was linking the private sector tourism expertise with the wide range of products which come from the reserves.

Native Cultural Tourism

by

Kevan Tisshaw
President, arete Projects
Vancouver, Canada

In general, North American culture is an amalgamation of many cultures. There are many people searching for identity and roots. Native people have the wisdom and knowledge to enrich and contribute to the predominant European North American culture. Native people have a long history, a strength to survive, a distinct identity, cultural stability, and an ingrained understanding of how to use the land and resources. This can be used as a powerful tool for development.

Non-Natives have a fascination for Native culture, as is confirmed by the huge market that exists for Native arts, crafts, novels, and legends. A cultural tourist project can be used to tap the curiosity of non-Natives. However, to ensure success, it must be a friendly experience, that is delivered with courtesy and respect. The development of a tourist arts centre, has the additional advantage of being a relatively inexpensive capital investment, that can gener-

ate substantial dividends.

The unrealistic perception that non-Natives often have of Indian reserves, discourages the public from visiting Native communities. This inhibits the development of a local economic base. This problem can be overcome by establishing recreational programs on reserves that attract tourists to cultural centres where Native arts and crafts are sold.

Recreational programs on reserves also, can assist in strengthening an appreciation for Native culture by:

- Providing a memorable experience that is enjoyed by those who participate.
- Providing outdoor training which increases the options for participation in new leisure pastimes.
- Increasing the general awareness about the land through the "eyes" of Native people.
- Instilling a greater appreciation for Native issues, such as land claims and natural resource development.

One outstanding example of a successful Native cultural tourist attraction is the project established by Scout Lee Gun in Oklahoma. She conducts training workshops for executives that are designed to expand human potential on the basis of the way that Natives have traditionally lived. These workshops are structured in a way that show the variety of lifestyles among Native tribes and how these tribes solved their problems and made decisions. Native games are used as examples of the traditional way of life. Initiation rituals are an implicit part of the process in order to show how humans can successfully meet challenge. Scout Lee Gun is now a millionaire.

To develop successful cultural tourism and recreation, program emphasis must be placed on the learning of skills. The more complex the process, the greater the learning experience.

Travel Through the Eyes of the First Peoples

by

Dawnena Walkingstick
Tourism and Travel Coordinator
Eastern Cherokee Nation
North Carolina, U.S.A.

A film was presented on the theme of seeing travel through "The Eyes of the First People." This film may be obtained through the presentor.

The Cherokee experience in promoting tourism and travel shows that you have to work to get the needed exposure. The Cherokee approach has included a demonstrated advertising campaign, slide presentations, public service spots, and personal dealings with the "traffic director" at local T.V. Stations.

Tillicum Village

by

Bill Hewitt
President, Tillicum Village
Tillicum Village,
Washington, U.S.A.

Tillicum Village is a Native Tourist attraction located near Seattle, Washington. The village was built with authentic Native architecture and material on a State Park

site located on Blake Island.

The essential product is comprised of a Native salmon barbecue, clam in nectar aperitifs, and quality Native dancing. The dining room can seat 900 people on five levels, and 330 people can be seated in fifteen minutes. The Dance House is separate and every tour has a show.

Arts and crafts products also are sold. Authenticity is emphasized. Every effort is made to keep the price markup low so each person can take something away to remind him of the village. As a matter of policy there is no haggling with the artists, either the price is accepted or there is no deal. Artists work on site so that people can watch and learn.

Approximately 10,000 people per month visit Tillicum Village. About one-quarter of the business is from the Seattle convention market, one-quarter is through the local coupon business or through the school youth program. A further one-quarter is from bus tour packages. The remainder is from individual tourists visiting from town.

There were a number of important lessons learned in the long and difficult process of developing Tillicum Village as a successful tourism business. It was tough to survive during the initial years, when the venture was undercapitalized. However, you must believe in your project and be flexible in your planning, while remaining faithful to the essence of your idea. Resourcefulness is required. For example, the logs from a boom broken up by a storm were used to build the longhouse. Be cautious when dealing with other parties, and assess the implications. For example, it took seventeen years before Grey Bus Lines finally gave in and included the village in their tour package.

Do not promote just your product, but the whole area. Cooperate and share resources with other attractions in your region. Use reduced price coupons for the local community, so that when tourists come they are aware of the product, and can pass this information on to visitors. Also, use the Travel In America Travel Directory which is sent out to all agents.

At the present time, Tillicum Village employs 24 people, eighteen of whom are Native. We are now in the process of looking for a Native manager.

United Indians of All Tribes Foundation

by

Bernie Whitebear
Central Manager
International Native Tour Brokers
Director, Indians of All Tribes
Seattle, U.S.A.

The United Indians of All Tribes Foundation is a Native organization which has the goal of facilitating economic development. At present, the Foundation's projects include the Daybreak Star Art Centre, A Tour Broking Agency operation, and an organization which explores foreign trade markets.

The Foundation evolved through a land claim settlement which led the Federal Government to accept an application for a Discovery Park. A twenty acre site was provided with a 99 year no fee lease, with automatic rights of renewal every 99 years into perpetuity. In addition to this land base, there is now a \$1.75 million budget.

The prime focus of the Daybreak Star Centre is a dinner theatre, which provides a showcase for traditional contemporary Native dancing. The food service alternates between salmon barbecues and buffalo. There are demonstrations of Native fashions, and each evening ends with a Native entertainer. The Daybreak Centre also has one of the largest collections of Native arts in America. Quality and reliability are the operating principles, and everything is top class. The centre does a lot of convention catering. At present, there are 44 Indian employees.

The goal of the Tour Broking Agency segment of the business is to educate tourists. It is based upon the fascination of tourists with Native culture. There is a need to destroy Native myths and replace them with good ones. Package tours are now being provided for inbound tourists, particularly those from the European and Oriental markets. The Agency takes a fee for each tour. At present there are two major destinations, the Macaws in Neah Bay and the Ke-We-Ta Tribe located in Oregon.

The Tour Broking Agency participated in a large tour package convention held in Seattle in 1983 (the Canadian equivalent is called "Rendezvous Canada" and is sponsored by Tourism Canada). This involved obtaining a list of tour managers, setting up a telex, and contacting tourist managers throughout the world. Contacts with writers and journalists were of considerable benefit. Local papers and travel journals also helped.

The Agency's operating principles are to be honest and truthful about what is being sold, and to guarantee delivery of promises to tourists. You have only one chance as a broker. If what is provided is not delivered, then people do not come back. Problems to date primarily have been with the destination tribes delivering. It is essential to have a competent and reliable manager as a contact point on each reservation.

The Foundation has contact with the American Indian World Trade Centre which is assisting with the marketing of products.

Northwest Territories Community-Based Tourism Plan

by

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Planner

Ministry of Economic Development and Tourism
Government of the Northwest Territories
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The Ministry of Economic Development and Tourism, is in the process of implementing a community-based tourism plan for the region. It is intended that Native people will be included as an intricate part of this plan.

The Northwest Territories (NWT) is divided into five regions. Each region has its own regional tourism office. Each region has a tourist association, which is made up of individuals from the private sector. These tourist associations work with government on all aspects of the tourist business, including marketing. The government provides advice, looks after licencing and enforces regulations. Government in cooperation with the tourist associations develops community committees which work with hunter and trapper associations, and with band councils.

Traditionally, tourism in the NWT was limited to fly in

sports fishing and hunting operations. The food, the lodging, and even the guides came from the south. As a result, nothing much was added to the local economy. In other words, those living in the NWT benefitted very little from fly in operations. It was generally agreed that something had to be done, if locals were to capture some of the potential benefits.

The approach was to develop a coordinated plan to address this problem. Government representatives got together with others in the community and prepared a policy paper. The policy was used as the basis for establishing an Economic Development Agreement between the Federal Government and the NWT. The Agreement allowed for the implementation of tourist service training programs, the funding of businesses, and other related economic development.

Despite the need for specific planning within each region, the overall plan is good and has resulted in many positive changes. It has allowed for growth and change at a manageable pace. It is providing a basis for changes in existing legislation. For example, new operations must be approved by local communities. This prevents "southerners" from coming up and opening a lodge without providing benefits for the community. There is greater cooperation locally which is creating greater business stability. A guide training manual has been completed to ensure a greater awareness about what tourists expect. There have been cook training and marketing seminars. In fact, when government money is provided to an entrepreneur, an equal amount of money must be provided for feasibility and marketing studies. The marketing, which at one time was primarily oriented toward sports fishing, now is much broader based, and includes such things as culture and art.

Other results include the establishment of local hotels and guiding services. A bed and breakfast trade is being developed. Local guiding services are now provided by local residents. The overall quality, and range of services available, has been substantially improved.

The answer as to what will be the long-term effects of this plan are still down the road. The benefits and costs must be judged on a wide range of factors, and the priorities which have been set. There must be a constant short and long-term evaluation and reassessment process. Funds have been provided for this purpose.

An implicit part of the planning and the implementation process is the recognition of the need to accommodate attitudes. Cultural adjustment is necessary to meet the new challenges associated with tourism. Such things as guides failing to meet planes, or failing to be available after arrangements have been made, are not compatible with success. This has caused some problems, but it is hoped we will be able to overcome them in the future.

In closing, I would like to point out that tourism was chosen as a focal point for planning and development because it is seasonal and is compatible with local lifestyles. The idea is for tourists to observe, experience, and learn about life in the Territories. By and large, the Native culture has been strengthened by tourism. Role models are being developed. There is a growing feeling among locals that they have greater control on what is going on. This is having somewhat of a "snowball affect" in that many are beginning to adopt a more businesslike approach and are discarding some of their previous habits. The point is, that many within the community are beginning to recognize other business possibilities and are taking greater pride in

themselves as northern residents with something to offer others who visit the area for a different northern experience.

The Rediscovery Program

by

Pat Stephenson
Rediscovery Cultural and Heritage Society
Masset, Queen Charlotte Islands,
B.C., Canada

The Rediscovery Cultural and Heritage Society consists mostly of status and non-status Indians. The Rediscovery Program, which was started in 1978 by a non-Native, Thom Henley, is just one part of the activities of the Society.

Masset and surrounding Queen Charlotte Island communities have a high youth suicide. There is a general cultural identity conflict between the Native and non-Native populations. Rediscovery attempts to address these problems.

- Creating an awareness among local youth about the Haida culture, values and history (both Native and non-Native youth).
- Creating communications between Native and non-Natives.
- The "hands-on" teaching of environmental awareness.
- Teaching survival and outdoor skills.
- Promoting personal development and identity.

The Program is presently funded through the Vancouver Foundation and the Ministry of the Attorney General, with help from sources such as Canada Works grants. The Society is in the process of exploring answers to self-sufficiency, including the marketing of the Rediscovery experiences for adults.

The Rediscovery camp, at the northwest top of the north island, currently operates during July and August. The potential season is May through October. The camp and operation is granted rights by the Masset Band Council.

Participants fly in. Most food is grown on site by counsellors and participants. Haida elders participate through a special program, and also assist in teaching workshops. Virgin forests and open Pacific beaches are the setting. Workshops available to participants include:

- Sensory Tuning In
- Predator/prey Relationships
- Beach Life Bingo
- Ecology
- Herbal Medicines
- Eagle Eyes (eagle watching)
- Kayaking
- First Aid
- Survival Skills
- Haida History
- Dramatization of Myths and Legends
- Deer Ears (Native game)

Participants vary in age from ten to seventeen. They usually stay ten days to two weeks. The second week includes a six day hike, during which each participant spends 24 hours by themselves in their own shelters. During this time they learn to get food from the land. The wind up session is a feast prepared by the participants using local natural sources for food.

The Program has had a dramatic effect on the Island community during its six years of operation. Suicide is down, pride is high, cultural identity is stronger, environmental awareness is higher, and racism has been reduced.

Gila Indian Reserve Tourism Project

by

Alan Kite
Tourism Director
Gila River Indian Tribe
Arizona, U.S.A.

The main component of the Gila Indian Reserve tourism project is a theme park. Gila Heritage Park is situated about 30 miles south of Phoenix. The primary goal is to attract tourists, especially from the bus tour trade. Because the Tribal Council does not want to have tourists wandering through their villages, the park provides for the necessary privacy.

The theme park was built to authentic standards of design, utilizing archeological and ethnological research methodology. It provides an historical perspective of the different tribes in the region over time.

Five tribes have settled at various times in the Gila Basin: the Pima, Hohokam, Papago, Maricopa and the Apache. Experts from a number of disciplines were used to build the facilities. An holistic vision, which linked the cultures of these tribes, was used. The resulting design was modified to direct the flow of traffic through the building and attractions. To lend authenticity to the park, ethnobiologists were used to identify the plants that would have been present at the various tribal sites. Elders provided criticism during the planning phase, and approved the park after appropriate changes were made.

The park focuses on the lifestyle of Indians. Most employees are Indian. They are assigned specific tasks which are meant to add to the ambience of the park. The state school system supports the projects, and pays to have it as a major location for school trips. When a tour bus arrives, singers in costume greet them.

A number of factors have been identified which are key to the success of Gila Heritage Park:

- (1) Only traditional clothes are allowed.
- (2) Garbage is not visible anywhere. Toilets and walkways have a rigorous maintenance schedule.
- (3) The attitude is that Native people are artists, not show people.
- (4) The employees are usually multi-talented. For example, those who can dance and cook, can also act as hosts or cashiers.
- (5) Wholesome, natural food is sold.
- (6) The craft shop is authentic. Money is made on bracelets, earrings and rings. Rugs and other expensive items may not sell well, but are displayed as attractions.
- (7) Display boards, which are lit, give important background information on history, origins, myths, and legends. They have proven better than guides.
- (8) People should be seen as guests and not tourists.

To ensure success for a large project like Gila Heritage Park, there is a need for both community support and volunteers. It is initially difficult to foresee the long-term economic benefits of tourism.

There are usually a number of difficulties that have to be overcome, if a tribe is to become involved in tourism. These include racism, resistance to cultural revival, hospitality skills, and understanding basic economic principles. There also are difficulties with patronage and tribal politics.

However, these problems can be overcome. The band must be realistic in what they want. The tribal government has to provide a stable environment, which is conducive to business success. Most importantly those running the enterprise have to take the time to find out what the tourist wants. Goals have to be set and a planned course of action followed.

Pow-Wow Quebec

by

Jean Picard
President, Pow-Wow
Huron Village
Quebec, Canada

The Huron village, outside of Quebec City, was responsible for one of the largest summer festivals ever sponsored by a Native group in Canada. It was called "Our Land — 1534 to 1984" and it was put on at the same time as the Festival of Tall Ships in Quebec City. The concept of holding it at the same time as another major North American summer special event was particularly bold, because of the potentially high risk of competition. The Tall Ships Program was particularly well publicized. However, if the "Our Land—1534 to 1984" proved to be a success it would result in worldwide exposure for us.

I am pleased to be able to report our summer festival was a great success. In fact, as visitors to the Tall Ships Festival became tired of the lack of activities, and learned of the Native Pow-Wow, they flocked to our site, and spent lots of money. In a one week period, the average revenue at one kiosk was \$5,000. The media, which does not always give the Native people positive coverage, were more than accommodating. Approximately 187 articles were printed, 43 national and international interviews, on both radio and television were broadcast across North America, Europe, and Japan. The CBC carried frequent stories. This will, of course, have a long lasting economic impact on our village tourist industry.

We can safely say that we responded successfully to our main objective as stated in the resolution of the Assembly of First Nations: "make sure that the Indians are on the map during this festival."

It certainly proved that when Native people deliver a product, it can generate unprecedented interest. As Mr. Guerette has noted, the support we received from the people of the Village was spectacular. It is our hope that these Pow-Wows can be continued and in fact be "taken on the road."

Corporate sponsorship might still be available, and it could provide great opportunities for our craftsmen to sell their product. As well, it could give our Native performers a chance to perform.

This concept was established at the Huron Village, but it can be applied anywhere in Canada.

The Stein Wilderness Project

by

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Vancouver, Canada

The Stein Valley is the last virgin forest in the Fraser Valley region of British Columbia. There is a proposal to log it in the near future. It is a traditional hunting and fishing ground for the Thomson and Lillooet area bands. It is a last link to an aboriginal way of living. However, there seemed to be little interest, especially among the younger Natives. The young people had lost the skill to enter and live in the wilderness.

The Stein Wilderness Exploration Program was established to show the land to these young people and teach them ways of surviving and living on the land. The program raised a series of questions concerning preservation versus development ethics. Many members of the area bands had become dependent on the forest industries, so there was considerable support to log the valley.

There are many moral and economic questions that have been raised by this experience. Should a Native community support an economic development that is dependent on the vagaries of world markets? Should it support a short-term gain at the expense of long-term stability? If the Stein is logged it will provide employment. However, it will merely serve to postpone the unemployment among our people for a few years. Over the long-term, we will look back and find that we have lost our virgin forest, and with it the potential for tourism. Re-planning to live in the old forest and having projects that bring in and educate visitors would seem to be more reliable in the long-term.

Questions need to be asked such as: "How much development is necessary for recreation and tourism?" New ideas are needed to replace our old styles of logging. We need to revitalize our energy and resources to survive in a way which is in harmony with the land.

There are advantages associated with appropriate small projects that create wealth on a small basis for communities. A certain amount of dollars are necessary, but the source and amount should be carefully planned. The themes "small is possible" and "small is beautiful" provide important perspectives.

There is a need to have a land base for the communities, and local self-reliant economics are a key to the future. Perhaps through the land claims process a viable basis for tourism can be realized, which is based upon the pristine forestry resources of the Stein Valley.

Perhaps the goal of tourism should be to "bring people to appreciate the secret of survival on the planet." North America has lost sight of nature, and it is possible, that Indian history and knowledge can help save it. Authenticity is what comes from the land, living in a place without radically altering it.

The K'san Project

by

Neil Sterritt
President

Gitksan Wet'suwet'en Tribal Council
Hazelton, B.C., Canada

K'san was founded in the late 1960s as a simple museum to store regalia and to be used for potlatches and feasts. K'san "means" river of mists. It has now grown into a considerable development and is viewed as a living museum.

K'san consists of a series of long houses, the first of which shows the 'pre-contact' with Europeans. It includes displays such as fish bowls and traps. The second shows what happened after Europeans arrived. The third is a feast house. Every Friday there is a feast, and campers are invited to visit. The fourth longhouse is for carvers to display how they craft. There is also a sales outlet house, and a house for cooperative tools such as lathes and table saws.

In 1975 a proper fireproof and humidity controlled museum was built and named the North West National Exhibition Centre. It now has a permanent Native collection, and serves as a place for both Native and non-Native touring shows.

The K'san project has many components. The K'san dance group, for example, is well known around the world. They refuse to do shows out of context or mood. While expenses are accepted, no fees for actual performances are accepted. K'san is also a school — the North West School of Indian Art. Advanced students are brought in and trained in the K'san style. It is recognized as a trade school and has been supported by Federal Government (Manpower) since 1970. The craft sales outlet sells to stores across Canada and in the United States. Historical research is conducted in concert with the elders, and the results are incorporated in the dances and curriculums of schools. K'san also has a good quality and well used campsite.

The project is not viewed as the solution to the high unemployment in the K'san region. It does have a role, however, in helping to alleviate the problem. When the Program started only volunteers were used. K'san still uses volunteers, but it is a million dollar operation today. The main source of employment is for the artists, who do the works. A few work full time and make very good livings. Most do as they want in their own time, as craftspeople prefer flexible schedules.

K'san operates on its own revenue. The project has undertaken contracts in other locations, and has a reputation for quality work delivered on time. K'san does not accept consignments. There is a markup of 100 percent on goods, and a panel of three judges decides on the price of each piece.

The strength of K'san is its uniqueness. It has, and needs, the elder's attention to details. The project fills a need for artists and craftsmen. The demand for such projects come from outsiders. The Tribal Council can create the structure, and local people can benefit, but the heart and motivation for success must come from the people themselves. Without this, the project will fail.

Tourism and the Cherokee Nation

by

Dawnena Walkingstick
Tourism and Travel Coordinator
Eastern Cherokee Nation
North Carolina, U.S.A.

Cherokees had an early assimilation with European culture, and the economy was based upon subsistence farming. By the 1930s and 40s, many people had left their Native skills and ways. Economic necessity led the people to consider the potential of tourism, associated with the Cherokee lifestyle.

The Cherokee Nation is situated at the southern entrance of the Smokey Mountains National Park, which has 8.5 million visitors a year. In 1949 a large outdoor drama theatre was started in the area which is operated by the Cherokee Historical Society. It operates between mid-June and Labour Day, and is the second largest such Native attraction in the U.S. Maximum capacity is 2,800 people, and the average attendance is 1,700 per performance. Admission is \$5.00 general and \$8.50 for reserved seating.

There are a number of other tourism related projects on Cherokee lands. A tourism office was started in 1976 which has a budget to promote tourism. The office has had to resolve problems of poor or non-existent zoning, signing ordinances, cleanliness, tribal politics, and social issues which overshadow tourism. There are now water and frontier theme parks, 25 campgrounds with 4,500 spaces, 36 motels, 200 craftshops, a bingo place with pots up to \$250,000 and a modern museum.

Many Cherokees resent the tourism influence, but a majority appreciate the economic independence it provides. The business now generates approximately 35 million dollars per annum. The Cherokees are independent of the Bureau of Indian Affairs, and operate most services including police, water and recreation. The Cherokee reserves are dry, as no sales of liquor are permitted.

Marketing is by way of publishing brochures, T.V. ads and periodic advertising. A visitor centre was established in 1981, and about 175,000 visitors come each year. There are "fan tours" of travel agents and brokers, as well as travel writers.

The importance of long-range planning and attention to details have been stressed as operational guidelines. Key details include:

- Understand the basics.
- Treat customers well.
- Offer clean toilets, fountains and green belts.
- Make sure the sewage is right, health problems can kill your project.
- Be flexible and prepared to change as changes are needed.
- Set goals and be sure to follow them.
- Use trade fairs and follow through on leads.
- Use visitor evaluation techniques.

Businesses on Cherokee lands were only twenty percent Indian owned fifteen years ago. Now 75 percent are Indian owned and only 25 percent are leased. The leases are long-term with performance clauses. Some shops are cooperatives.

The basic operating guideline is to be honest, and find a balance between the strengths and weaknesses of the project.

Marketing Strategies for Native Tourism

by

Frank Addison
President
Addison Travel Marketing
Vancouver, Canada

There are a number of factors which should be taken into consideration when developing marketing strategies for Native tourism initiatives:

- Consider Canada and the U.S. as one market.
- Research your potential market. Take into consideration what your visitors want, how they get there, and what their income levels are.
- The first market is the immediate area around you. Do not get carried away. Do not hesitate to use regional magazines and newspapers to tap local markets.
- When considering particular in trade travel shows, take the seasonality into consideration. For example, do not hold a fall show if you have a winter product.
- If you put on, or participate in, consumer shows choose ones that fit your visitor profiles.
- If there are opportunities for a tour bus market, attend

the National Bus Tour Association Show or the American Bus Tour Show.

- The U.S. based American Society of Travel Agencies have national and regional shows to help tap the tour and travel agents market.
- Analyse the market, participate in a select few shows, and then repeat these for a few years. Build-up, only after deciding upon your market and after you have gained a reputation. Be consistent and follow-up leads.
- The conference and small meetings market is considerable, and the best way of gaining access is through alignment with the provincial and state visitors bureaus.
- Other potential marketing areas are the appointment style shows such as the American Pow-Wow of International Tour Buyers. Rendezvous Canada is the Canadian version.

For any successful tourism initiative, there should be a long-range marketing plan. Start with a philosophy and clearly define what you want to accomplish. Then get an analysis with appropriate statistics on your potential markets. Develop some alternative strategies to tap the identified market. Then choose one and stick with it. A prime objective is to position yourself within the local regions, and develop a network comprised of local organizations and groups. Finally, be assertive and speak up.

WORKSHOP DISCUSSION SUMMARY

Tourism and Recreation

SUB-THEME #8

Native people have the wisdom and knowledge to contribute to the predominant North American culture. Non-Natives have particular fascination with Native culture, and this fascination can be used to advantage for establishing culturally based tourism and recreational initiatives. The presentations during the workshop sessions demonstrated very clearly that such initiatives can provide major building blocks for the self-reliance of Native communities.

Tourism can be culturally and socially beneficial, as well as economically advantageous for Native people. One positive result from the organized development of cultural tourism is that it can provide opportunities for local people to learn more about themselves, and can give them increased feelings of pride in their cultural heritage and contemporary accomplishments. It heightens the perceptions of their own self worth. Residents of Mexico City, for example, speak with great pride of their Ballet Folklorico, and west coast Natives respond with similar pride when discussing their Museum of Anthropology in Vancouver.

Tourism can also reawaken and intensify an interest in lost skills and crafts, and can serve as a stimulus for re-development. The San Blas Cluna Indians of Panama seldom wore full traditional dress (known as the mola), and only a few had the skill to sew such a garment. The government built artisan schools and introduced quality controls in mola production. This program, born of tourism, encouraged the Indians to renew their skills and become

artisans in the old traditional crafts, thus rekindling an appreciation for a forgotten heritage.

A second positive aspect of tourism is that it often provides attractive employment opportunities, and a variety of new jobs that might not otherwise be available. Aside from employment associated with the construction and maintenance of tourist attractions, job opportunities suited to a wide variety of individual characteristics are also created. For example, in some Caribbean Islands, tourism has provided employment opportunities, such as guides and lecturers, which had never before been available to women in that area. Tourism development provides employment for archeologists, and other professionals, as well as a variety of semiskilled and unskilled workers. Museums require unskilled workers and numerous skilled and semiskilled professional people. Hotels, restaurants and other similar tourist oriented businesses all require employees.

A third important contribution of Native tourism is that cultural activities and programs often may be developed for the off-season, thus helping to smooth over economic fluctuations. For example, a Native arts and crafts workshop and lifestyle centre is being proposed for the Arctic Coast which will encourage travellers to that region, especially in the off-season.

A fourth contribution is the opportunity to use cultural resources as travelling attractions. The Inuit are doing this now with their throat singers. There are many opportunities to send an exhibit of west coast art to various parts

of the world. By displaying its culture in this manner, a band can create, or strengthen, a positive awareness of their culture throughout the world. Tourism can also be used to promote other productive sectors of the economy. Native west coast art, for example, is some of the most desired indigenous art forms in the world. The work of the Canadian Arctic producers has made Inuit prints and carvings world famous and has stimulated a greater appreciation of the work and lifestyles of this Arctic people.

In Puerto Rico the Institute of Puerto Rican culture has been encouraging traditional skills of jewelry making and wood carving. The Economic Development Administration has now decided to promote these crafts as an industry vital to the local economy. A third government agency, the Tourist Development Company, will stage exhibits, organize workshop tours, and publicize Puerto Rican crafts among the one million visitors who annually visit the Islands. It is estimated that, given the proper promotion, marketing, and other assistance, the crafts will grow into a twenty million dollar a year industry.

Nearly every area has some potential historical or contemporary cultural resource that can be developed into a tourist attraction. Possibilities are often limited only by the imagination and resourcefulness of planning and development organizations. For instance, there are opportunities for archaeological digs as tourism attractions in this Province. The Stanley Park middens and village sites on the Queen Charlotte Islands offer such opportunities. As well, attractions ranging from historic architecture, totem poles, churches, and tent rings offer many opportunities for development.

More elusive, and perhaps less obvious, are the cultural opportunities that deal with people. This includes their historic and contemporary customs, thoughts and accomplishments. While such tourist attractions are often seasonal or periodic, some may be of a more permanent nature. Most cultural attractions of this type are supplementary to major attractions, but may become major attractions in themselves. While most people, for example, go to Hawaii for the climate and scenery of the islands, the Polynesian Culture Centre and the Kodak Hula Show host thousands of visitors each day and have become a standard part of many tours. The Polynesian Culture Centre exhibits the ways of life of Polynesian cultures. The daily Kodak Hula Show and the annual Aloha Festival in October features music, dances, and costumes of the people who live in Hawaii. Similarly, tours to the wine producing areas of California emphasize contemporary agriculture, and production methods, which have become quite popular among people from North America. Museums, theatres, pageants, festivals, ethnic restaurants, cultural resorts, and other similar attractions, are often significant adjuncts to primary tourist destinations.

The problem is not so much a lack of cultural tourism opportunities, as it is a lack of an organized methodological approach for analyzing an area for cultural tourism development.

A major focus of the conference was on case histories and demonstration projects that have been successful. Major events such as Pow-Wow '84 festival prove Native programs can compete successfully. The Tillicum Native Village is an excellent demonstration model, particularly with respect to how it developed in relation to a basic

understanding of its different markets. Land claim settlements can be used as a foundation for business development, as is evidenced by the successful United Indians of All Tribes Foundations tour broking initiative. Uniqueness and quality are key ingredients to successful Indian tourism initiatives. This is shown in the K'san and the Gila Indian Reserve tourism projects.

If Native tourism and recreation initiatives are to succeed, some form of long-range strategic plan is essential. The plan must be community-based and take into consideration the needs and aspirations, as well as the cultural and heritage values of the people. Sound financing is essential for success. A thorough and professional marketing strategy is necessary as well. The plan should also take into consideration possible integration with other tribal projects or businesses.

In conclusion, the workshop presentations and subsequent discussions, suggest that the following principles are important to success:

1. There must be a belief in the product, a long-term commitment, faithfulness to an idea, and flexibility in planning, authenticity, and quality. Research is often critical.
2. The visitor must be treated as a "guest" rather than a "tourist," and those providing the services should be considered hosts and educators.
3. There is a need to separate tribal politics from business management practices.
4. A long-range strategic plan is needed which takes into consideration tribal objectives and philosophies, economic feasibilities, social and economic impacts, physical planning, training and marketing.
5. Consideration must be given to ensuring an appropriate scale of development, that will allow for growth and change at a reasonable pace.
6. The generation of employment opportunities is an important aspect of Native tourism initiatives. However, it is important to recognize that employment for employment sake may not always be a sound business practice.
7. Training and education are essential to ensure band membership involvement in tourism development. The areas in which training is required include business management, planning, quality control, and marketing. Knowledge about tourist expectations is also important.
8. Guests expectations should be catered to, and customers should be dealt with honestly.
9. A sound financial package is essential. This package must include the assurance of an adequate cash flow.
10. Tourism projects development should take into consideration the preservation and restoration of cultural and heritage values.
11. Care should be taken by those operating a Native business to ensure that the money generated by the project is used wisely. Over the counter cash inflow does not necessarily represent net profit. The distinction between the money required to operate the business, the money available for reinvestment, and the money that can be distributed among investors is important. If this distinction is not made, then business failure will almost inevitably result.

CONFERENCE SUB-THEME 9

WORKSHOP OUTLINE

WORKSHOP TITLE:

Non-Renewable Resources

WORKSHOP COORDINATORS:

George Thomas
Indian Land Coordinator
ARCO Explorations Ltd.
Denver, U.S.A.

Ed Moore, Consultant
Calgary, Canada

WORKSHOP FORMAT:

This Workshop is comprised of the following three sections:

Section I:

Ownership and management of minerals in Canada and the United States

Section II:

Taxation

Section III:

Corporate Viewpoint, Needs and Resources

The session recorders in cooperation with the workshop participants prepared a summary report for presentation to the conference on the final day of deliberations.



Ed Moore leading Non-renewable Workshop Discussion

NON-RENEWABLE RESOURCES

PANEL PRESENTATIONS

SECTION I

Ownership and Management of Minerals in Canada and the United States

MODERATOR:

George Thomas
Indian Land Coordinator
ARCO Explorations Limited
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Ownership and Management of Non-Renewable Resources Underlying Indian Reserves in Canada

by

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While there is a larger problem of promoting Indian involvement in mineral development both on and off reserves, this presentation will relate strictly to on-reserve considerations. I propose to discuss the ownership of minerals lying under Indian reserves, I intend to discuss the management procedures that have been adopted as a result of the uncertainties associated with mineral ownership. The discussion on management will relate primarily to procedures now in use. An attempt will be made, however, to introduce some thoughts as to the possible changes that may result from the proposed Indian self-government legislation.

The term "non-renewable resources" has been used to denote a number of resources including minerals and ground water. For the purpose of this presentation, I will only refer to minerals. In its very broadest sense, the word "mineral" includes both organic and inorganic substances that can be recovered from the earth for profit. This includes solids such as gold, metallic minerals, coal, and gravel. It includes liquids such as oil or mineral waters. Included also are the natural gases, and carbon dioxide. To avoid confusion, each legislative act and regulation defines the word mineral. In Canada the management of sand, gravel, peat, ash, marl, and earth are taken as special cases and are usually excluded from any general discussion on development of minerals. At the present time, considerable thought is being directed to the development

of new special procedures for sand and gravel management.

Within Canada there are 577 bands on 2,200 Indian reserves. British Columbia alone has 197 bands and 1,620 reserves. Since these reserves have been established for a long time (some prior to confederation) and for a wide variety of different reasons, it is difficult to generalize. There is always an exception to any general statement that is made about Indian reserves in Canada. However, generally, it can be said that the title to surface rights are held in the name of the Crown for the use and benefit of the particular band for which the reserve was established.

The ownership and title to minerals lying under Indian reserves varies throughout Canada. It should be noted that in some cases reserves were set up by Canada in Canadian territory, so that the ownership is clear. In many cases, however, reserves were transferred from the previously existing Crown Colonies when they joined confederation. Under such circumstances, there is a legal question as to just which mineral rights were transferred. Under British common law, the "King's" or "precious" minerals (gold and silver) were not transferred by the Crown unless specifically included in the documents. In British Columbia, for example, we have a split in title between precious and other minerals. Because it is difficult, if not impossible, to mine one without the other, federal-provincial agreements have been negotiated to provide for a method by which development can take place. Whenever subsurface minerals have been determined to be in the name of Canada, the title is held by Her Majesty on the same basis as surface rights.

In Ontario the terms of the 1924 Ontario Lands Agreement provide that the administration of minerals rests with the Federal Government. However, 50 percent of the benefits resulting from mineral activity on Indian reserves, must be passed on to the Provincial Government. There are exceptions to this. These exceptions mainly involve reserves that are party to the Northwest Angle Treaty. Those reserves that are participant to the Northwest Angle Treaty are not included in the Ontario Lands Agreement. Other exceptions include those reserves for which the Province waived its 50 percent share. The 1924 Ontario Agreement currently is being renegotiated. It is anticipated that petroleum, natural gas, and coal will be included in the negotiations. There is no agreement with the Province of Quebec. It is federal policy to discourage mineral development on Quebec reserves until the bands are able to receive some benefits.

In the provinces of Alberta, Saskatchewan, and Manitoba the Indian people receive all the benefits from mineral activity on Indian reserves. There are, nonetheless, some potential problems. Prior to Alberta, Saskatchewan,

and Manitoba joining confederation, the lands held territorial status with Canada owning all rights. Upon confederation, Canada retained the rights to natural resources until 1930. At that time, agreements known as the 1930 Natural Resources Transfer Agreements were negotiated with each province, and each agreement was ratified by reciprocal legislation in the federal parliament and in each provincial legislature.

Under the Alberta 1930 Resources Transfer Agreement, all the minerals underlying existing Indian reserves, and those reserves already surveyed but not established, were reserved to Canada for the benefit of the bands. A provision in the Agreement required the Province to set aside, from time to time, unoccupied lands for the purposes of fulfilling unsatisfied treaty obligations. However, those lands set aside would have the applicable mineral clauses of the Ontario 1924 Agreement apply *mutatis mutandis*. In practice, all revenues earned through mineral development, on those reserves set aside after 1930, should have been split with the Province. This has, from time to time, caused dispute because of disagreement over which surveyed lands were set aside for the benefit of the bands.

These disputes often involve millions of dollars. For example, there are reserves in Alberta, where developments generate millions of dollars per year. Band reserves such as the O'Chiese, Sunchild, Dene Tha, Jean d'or Prairie, all earn substantial revenue. To date, Alberta has not requested any funds, and resists the idea of a formal amendment to the Agreement. As far as is known, this "waiver" has been by way of the blind eye principle and there is no written confirmation. Certainly, the Province is well aware of the wording of the 1930 Agreement and the dollar values involved.

In Saskatchewan there are a number of reserves where the 50 percent split would apply. There are also negotiations underway to create a number of new reserves. Saskatchewan has made it clear that they would like a formal amendment to the 1930 Agreement. In the meantime, they are also turning a "blind eye."

The Manitoba 1930 Agreement has the same potential problem as is the case in Alberta, although less revenues are at stake. Manitoba appears to resist the idea of an amendment.

In British Columbia, the development of minerals underlying Indian reserves is subject to the 1943 British Columbia Indian Reserves Mineral Resources Agreement. The Agreement provides that after a surrender of minerals by a band, the administration of minerals is turned over to the Province. Surface rights continue to be administered by the band and Canada. The Province collects all revenues and is required to forward to Canada, on behalf of the band, 50 percent of specified royalties. Since B.C. depends largely on a mineral tax for revenues, and these taxes are not considered to be subject to the 50 percent split, bands could be in a position to receive 50 percent of nothing. In B.C., petroleum, natural gas, and coal are not included in the definition of the word minerals, consequently, significant revenues have been received by the Indians from the development of these resources. Since the benefits to the Indians from development of other minerals under the 1943 Agreement would be inconsequential, the Department of Indian Affairs and Northern Development (DIAND) has been exploring the possibility of renegotiating the Agreement to secure improved benefits for the Indian people. It is not federal policy to promote mineral development on B.C. Indian reserves other than for oil and

gas, while the 1943 Agreement is still in force.

The Nova Scotia and New Brunswick Agreements allow, without regard to ownership, the administration of minerals by Canada under mining regulations that are made from time to time under the Indian Act. Any surrender by the band is merely a surrender of all those rights, real or imaginary (mineral, surface and otherwise), necessary to allow mineral development.

There are no agreements with the Provinces of Newfoundland and Prince Edward Island. Canada owns the mineral rights of the two northern territories which are administered by the Northern Affairs Program of the DIAND. Established reserves are subject to the Indian Mineral Acts and Regulations.

Management and Administration

An important, if not overriding aspect regarding the management and administration of Indian mineral resources, is the Minister's statutory responsibility which is continually being defined through the judicial process. This responsibility includes the identification and protection of the mineral assets, as well as, the timely development of the minerals to ensure that the Indian people receive optimum benefits for their mineral resources. The collection of royalties for the minerals as they are developed, is a major requirement of this statutory responsibility. The managers of Indian minerals collect the royalties and place them in band funds.

Section 57(c) of the Indian Act provides for the Governor in Council to make regulations respecting the disposition of minerals underlying Indian reserves. Pursuant to this Section, a series of sets of Indian mineral regulations have been published for oil and gas, and for mining. In 1974, during the period of rapid increases in the price of oil and gas, it was determined that the rates of royalties could not suitably be changed by mere amendment of the regulations. As a result, the Indian Oil and Gas Act was passed which removed oil and gas from Section 57(c) of the Indian Act. This new Act stated that notwithstanding anything in previous regulations or existing leases, new stipulated rates of royalties would apply as of April 1, 1974. A new set of Indian Oil and Gas Regulations were passed in 1977.

Regulations made by Order in Council for the disposal of surrendered mines and minerals, which underly reserve lands, are administered by DIAND. Legal opinion suggests that the control and management of the mineral resources cannot be transferred to a band under existing legislation. Despite this, there is a continuing effort to encourage bands to become more involved in the management of their mineral resources. The amendments to, or replacement of, the Indian Act should change this situation and may see the bands sharing the authority and the responsibility for the management of their mineral resources.

Before any mineral development on Indian lands can take place, the Indian band for whom the land is set aside, must make an appropriate surrender of the minerals and the mining rights to Her Majesty in right of Canada pursuant to Sections 37 to 41 of the Indian Act. Once surrendered the mineral rights may then be administered under the provisions of the Indian Oil and Gas Act, the Indian Oil and Gas Regulations, and the Indian Mining Regulations. The latter method is undertaken by the office of Indian Minerals in consultation with a band council. The regulations provide for the disposal of mineral rights by

public tender or by negotiated agreement. The band council has final right of approval to any negotiated agreement.

Although a mineral surrender by a band provides full authority to DIAND to manage the mineral right, the band is consulted and consent sought before proceeding with any disposition of mineral rights. Unless otherwise specified in the call for tenders, or in a negotiated agreement, the royalties from mineral development are prescribed by regulations. These royalties, as well as fees and rentals (from permits and leases) and bonus monies realized at a sale of mineral rights are deposited to the band's revenue or capital account and then distributed pursuant to the Indian Act.

Many of the Indian reserves in Canada are located in areas which are geologically favourable for the discovery of mineral deposits. Although Indian oil and gas resources have been actively developed, the mining of metallic and non-metallic mineral potential of Indian lands has remained virtually untouched. At present, almost all of the mineral activity on Indian lands is from oil and gas development. This takes place almost exclusively in the Province of Alberta. These oil and gas resources are developed entirely by oil companies under the provisions of the Indian Oil and Gas Regulations. Mining companies could also play a major role in developing mineral resources. To date, however, there is only one major mining development in operation.

Native people are now becoming aware of the resource potential of their lands, including the non-renewable natural resources, and the importance that timely and prudent development can play in assisting the Indian people to obtain self-sufficiency. Natives are preparing to take a more active part in developing their mineral resources. This participation is seen as essential to the development of a realistic program that fosters cooperation and mutual understanding among Natives, industry, and government. It is essential to develop policy and implement regulations that provide assurance that the Indian people, and industry will reap adequate benefits.

Proposed Legislative Amendments

In June of 1984 the Honourable John Munro, the then Minister of Indian Affairs and Northern Development tabled Bill C-52. This set out a general framework within which detailed provisions for the recognition, design, and implementation of Indian First Nations Government might be achieved. The Bill respected the diversity of Indian nations by providing a base from which a wide range of options might be possible. The legislation would provide for a full range of executive and legislative powers to allow Indian First Nations to develop their lands and resources in their own way, without the constraints existing under current legislation.

Indian Minerals Development in the United States:

Acts, Regulations and Procedures

by

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History of Statutes

An Act of 1875 was the first legislation to allow the

leasing of tribal lands for the development of minerals. Companies were allowed to explore for minerals on reservation lands. If they discovered minerals, they were given ten year leases with the right of extension, on the condition that they produced sufficient return to the tribe.

An Act of 1909 made provision for the following:

Authorizing leases of allotted tribal lands for mining purposes by allottees.

Requiring approval of the Secretary of the Interior.

Amending the previous Act (1875) to permit the Secretary of the Interior to lease lands on behalf of minors, incompetents, and owners of future interests after comprehensive lease sales.

Enacting regulations (25 CFR Part 212) requiring competitive tender lease sales of all minerals.

On May 11, 1938 further legislation was passed which:

Required competitive tender lease sales for all oil and gas developments.

Allowed the Secretary of the Interior to grant Indian owners permission to negotiate leases for minerals other than oil and gas.

Limited the extent of leases to a maximum area of 2,560 acres.

Granted the Secretary of the Interior the right to direct that negotiated leases be rejected and that leases be advertised for sale by competitive tender.

Directed that no leases be granted without authorization by the tribes.

Directed that where a tender is not satisfactory to the Secretary of the Interior, it can be rejected and negotiations for a new lease agreement can be undertaken.

Other legislation enacted in the United States that effects or defines the terms and conditions under which minerals could be leased, developed or produced on Indian lands include the following special acts:

1. Five Civilized Tribes, Oklahoma.
2. Osage Reservation Lands, Oklahoma.
3. Lead and Zinc Mining, Quapaw Agency, Oklahoma.
4. Ceded Lands, Wind River Reservation, Wyoming.

The Need for New Legislation

To correct many of the existing difficulties constraining Indian mineral development, new measures were required to provide greater flexibility in terms of the disposal of minerals. The requirements of forced competitive tendering was objectionable, especially because of cost factors and time requirements associated with the development of small resource opportunities. As well, competitive tendering did not provide a forum to promote meaningful tribal involvement, which is often crucial to the success of any venture. Other difficulties were being encountered as a result of the maximum acreage limitation and the paying quantities requirement. It was argued that some detrimental effects to tribes or companies may have been associated with the strict enforcement of provisions, allowing non-extension of leases for oil and gas production.

Over the years a number of leases had been signed between companies and tribal councils without obtaining

the formal approval of the Secretary of the Interior. These have officially been termed non-leases. The determination of which leases might come within such a classification is difficult, because a clause by clause review of all agreements would be required in any attempt to determine status. This would, in turn, uncover the large spectre of legal challenges.

In the late 1970s there was a decision to seek new legislation. The basic and underlying reasons for pursuing legislative changes were:

Tribes were demanding greater involvement.

Tribes wanted to see an increase in exploration, development, and production.

Everybody associated with current projects wanted to avoid unnecessary litigation.

Indian Mineral Leasing Act of 1982

In drafting new legislation, the following concerns of the Congress of the United States had to be considered:

Government was not to underwrite leases.

The Secretary of the Interior must retain trust responsibility.

Allottees must join with tribes.

A review of all previously approved agreements must be undertaken.

An act must be supported by regulations. (It should be noted that regulations have yet to be completed).

Government is to be responsible for the proper wording of lease agreements.

It was intended that the new Act would allow tribes to enter into mineral agreements. These agreements could include activities such as exploration, development, production, transportation, and treatment. It was still necessary to obtain the approval of the Secretary of the Interior, or his delegate, before any agreement became enforceable by law. Refusals cannot be delegated, and must remain the responsibility of the Secretary. Time limits are placed upon the approval process. Agreements must be ratified within 180 days. This may be reduced to 60 days when acknowledgement of full compliance with environmental authorities has been provided.

The Secretary of the Interior must consider economic returns, environmental effects, trust responsibility, social impacts, and other factors prior to approving an agreement. A written report is then required.

It is now possible for a tribe to commence litigation through the appropriate courts to force a decision where delay is encountered on the part of the Secretary of the Interior.

Although tribes can now negotiate with complete independence, they are encouraged to consult and involve the Bureau of Indian Affairs (BIA) at an early stage of discussion. While the act excludes the Secretary of State from disclosure of proprietary interests and information, this is in direct conflict with Freedom of Information Legislation. There is now an option for tribes to use lease sales through the tender process while retaining the authority to reject the higher tender by reverting to the negotiating process.

Previous concerns taken care of in the 1982 Act are:

A mechanism for allottees to join with tribes subject to approval of the tribes.

The authority and mechanism for tribes to enter into various forms of joint venture development. BIA is charged with the responsibility of providing assistance in negotiations if requested. BIA retains responsibility for the final written documents.

The Bureau of Land Management is responsible for monitoring leases to ensure compliance. The Office of Service is responsible for coal developments only. The Minerals Management Service collects and accounts for all revenues.

SECTION II

Taxation

MODERATOR:

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Taxation Systems on Indian Lands: A Legal and Economic Perspective as Applied to Oil and Gas Activities in Canada

by

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Introduction

This paper is an attempt to clarify the fiscal regime on Indian lands as that term is defined in the Indian Act. The Indian Act exempts, in certain circumstances, Indian people from taxation. With the increased interest by Native organizations and others in economic development on Indian lands, especially the production and processing of oil and gas, the necessity for clarification became apparent.

In 1976, Douglas Sanders wrote a paper for Indian and Northern Affairs entitled *Legal Aspects of Economic Development on Indian Reserve Lands*, which briefly considered the problems of taxation. Since it was written before the National Energy Program (NEP), the interaction of the normal rules of the applicability of various taxes with the new set of NEP fiscal instruments was not examined. This paper attempts to fill that void.

A further reason for a reexamination of this area is the changing jurisprudence with respect to exemptions from the various taxes. The Alberta Export Tax Case, the challenge to the Natural Gas and Gas Liquids Tax (NGGLT) by the City of Medicine Hat, and Saskatchewan's challenge have somewhat altered our previous conceptions of "direct vs indirect taxes" and "property of a province," in respect of intergovernmental taxation. These changes have an impact on the interpretation of taxation of "property of an Indian" found in the Indian Act. Furthermore,

settlement of Native land claims in both the north and within the provinces may expand the applicability of the Indian Act and the exemption provided within.

In discussing the impact of the exemption provided by the Indian Act, some consideration should be given to the form that Indian participation could take. Relevant to this is the fact that exploration and production on Indian lands is carried out pursuant to the Indian Oil and Gas Act and Regulations. In the past, Indian bands have had a passive interest in production, that is, collecting royalties via the Crown in the right of Canada. Current desires by Native groups for a fuller participation in economic development, especially in resource projects, create many possibilities.

Increased Indian participation could take the form of participation in ownership of the exploring or producing entity or some form of employment guarantee. Thus Indian groups would be the recipients of wages and profits, in addition to royalties or working interest revenues.

The exact legal structure used for participation is also important. These various structures which are available include the corporation, the partnership, the limited partnership, and the trust. The usefulness of each of these entities to Indians and their co-explorers or producers will depend as much on their tax consequences, as on the possible exposure to personal liability that each of these entities have according to corporate law.

This paper will take the following form. First the nature of tax exemption provided by the Indian Act will be examined. The second part is an examination of the fiscal instruments which could be applicable in production and processing of oil and gas from Indian lands. These are:

- a) Income tax, imposed pursuant to the Income Tax Act S.C. 1972-73-74, more specifically:
 - i) Deductibility of royalties paid to Indian bands.
 - ii) Taxation of partnerships and limited partnerships including those with tax exempt partners.
 - iii) Taxation of joint ventures with tax exempt interest holders.
 - iv) Taxation of trusts, including tax exempt beneficiaries.
 - v) Taxation of corporations.
- b) Royalties imposed pursuant to either provincial legislation (generally applicable freehold mineral taxes or mineral income taxes), or the federal legislation: the Canadian Oil and Gas Act or the Indian Oil and Gas Act.
- c) The Petroleum and Gas Revenue Tax and the Incremental Oil Revenue Tax (IORT), if applicable, are imposed pursuant to the PGRT Act. S.C. 1980-81-82-83 Ch. 68.
- d) The NGGLT imposed pursuant to Amendment to the Excise Tax Act S.C. 1980-81-82-83 Ch. 68.
- e) Manufacturer's sales tax pursuant to the Excise Tax Act.
- f) Eligibility under the Petroleum Incentives Program (the PIP Act S.C. 1980-81-82-83 Ch. 107) and Alberta's PIP program.
- g) Eligibility for payments from or liability for payments to the Petroleum Compensation Fund imposed pursuant to the Energy Administration Act (EAA) Part III.1.
- h) Liability under the Canadian Ownership Special Charge imposed pursuant to the Energy Administration Act Ch. 114 Part III.2.
- i) Liability for provincial or federal, gasoline sales or ex-

cise taxes and eligibility under the appropriate refunding mechanisms.

- j) Export tax imposed pursuant to the Energy Administration Act Part I and the possibility for sharing revenues under S.17.(1)b.
- k) Eligibility for provincial exploration and geophysical incentives.

I. The Tax Exemption Provided by the Indian Act

Section 87 of the Indian Act is the taxation exemption section which in part states:

Notwithstanding any other Act of Parliament of Canada or any Act of the Legislature of a Province . . . the following property is exempt from taxation, namely:

- a) the interest of an Indian or a band in a reserve or surrendered lands, and
- b) the personal property of an Indian or a band situated on a reserve, . . .
- c) and no Indian or band is subject to taxation in respect of property mentioned in (a) or (b).

The scope of this provision is the crux of the matter regarding Indian taxation. A careful reading of the section suggests that at least four definitions are crucial, a) personal property, b) Indian, c) on (eg. situs) d) reserve. These will be considered in separate sections.

Personal Property

The exemption applies to those things which can be classified as personal property. The practice of Revenue Canada is reflected in Interpretation Bulletin No. IT-62 of August 1972.

While the exemption in the Indian Act refers to 'property' and the tax imposed under the Income Tax Act is a tax calculated on the income of a person rather than a tax in respect of his property, it is considered that the intention of the Indian Act is not to tax Indians on income earned on a reserve. Income earned by an Indian off a reserve, however, does not come within this exemption, and is therefore subject to tax under the Income Tax Act.

This position came under some examination of the recent case of *Nowegijick v. The Queen et. al.* a case that eventually went to the Supreme Court (83 D.T.C. 5041.)

The Trial Division of the Federal Court found that the wages of an Indian, living on a reserve, and receiving wages from a company with a head office on the reserve, for work performed outside the reserve were not taxable (79 D.T.C. 5115).

It is not clear from the Federal Court Trial Judgment, but from the decision it appears that Revenue took a position based on the Federal Court of Appeal's decision of *Russell Snow v. the Queen* (79. D.T.C. 5177) where the court decided an Indian was taxable on wages received off the reserve for work done off the reserve. Justice Le Dain stated:

. . . on the ground that the tax imposed on the appellant under the Income Tax Act, is not taxation in respect of personal property within the meaning of Section 86 of the Indian Act, (now Section 87). In our opinion, Section 86 contemplates taxation in respect of specific personal property qua property and not taxation in respect of taxable income as defined by the Income Tax

Act, which while it may reflect items that are personal property but an amount to be determined as a matter of calculation by application of the provisions of the Act.

Mahoney J. recognized the point. However, he went on to say:

The question is whether taxation of the taxpayer in an amount determined by reference to his taxable income is taxation 'in respect of' those wages when they are included in the computation of his taxable income . . . If his taxable income is increased by the inclusion of his wages in it, he will pay more tax. The amount of the increase will be determined by direct reference to the amount of those wages. I do not see that such a process and result admits of any other conclusion than that the individual is thereby taxed in respect of his wages.

The Federal Court of Appeal concluded that the taxpayer was not exempt because the tax imposed on the appellant was not taxation in respect of personal property within the meaning of Section 87. The Court failed to see a distinction with *Russell Snow v. the Queen* (79 D.T.C. 5177). Mr. Nowegijick appealed to the Supreme Court of Canada.

Mr. Justice Dickson in addressing the question of personal property set out Paragraph 5 of the Interpretation Bulletin (quoted above) and noted counsel for the Crown said it was wrong. He then quoted at length the case of *Bachrach v. Nelson* (1932) 182 N.E. 909) which established that income is personal property and adopted the conclusion "income includes property and nothing but property and therefore is property." He also concluded that Section 87 exempts not only property, but the last part which reads "no Indian . . . is subject to taxation . . . , provides a separate exemption for Indians." He further stated:

As I read it Section 87 creates an exemption for both persons and property. It does not matter then that the taxation of employment income may be characterized as a tax on persons, as opposed to a tax on property.

Indians

The exemption applies to Indians as defined by the Indian Act. Interpretation Bulletin No. 62 quotes the pertinent sections:

Definition of 'Indian'

- (a) Subsection 2(1) of the Indian Act states: 'Indian means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian.'
- (b) A list of persons who are not entitled to be registered is contained in Subsection 12(1) of the Indian Act. The most common exception is that of a person who is enfranchised (that is one who has lost status as an Indian), and in this regard subsection 109(4) of that Act states: 'A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council.'
- (c) Section 110 of the Indian Act states: 'A person with respect to whom an order for enfranchisement is made under this Act shall, from the date thereof, or from the date of enfranchisement provided for

therein, be deemed not to be an Indian within the meaning of this Act or any other statute or law.'

- (d) Although 'person' is defined for purposes of the Income Tax Act to include any body corporate or public, a corporation cannot meet the definition of 'Indian' in the Indian Act and its income is not exempted from tax by these provisions, even where its only shareholders are Indians, its head office and physical assets are on the reserve and all its business is carried on there.

Not examined in the definition is the status of a partnership, i.e. whether it would be considered an Indian for the purposes of taxation.

Situs

The exemption applies to an Indian's personal property on the reserve. The Interpretation Bulletin notes in 6(e), that prior to 1967 Indians had to be resident on the reserve to obtain the exemption. This is no longer the case.

The Interpretation Bulletin notes in 6(g) that location is a key factor: Income on a reserve is exempt, income earned away from the reserve is taxable. To put a situs where the "earning" occurs the Interpretation Bulletin classifies various income sources as follows:

- (i) Salary and wages are considered to be earned where the services are performed. For an office worker this is the office at or out of which his duties are performed; for a construction worker employed on a project it is the job site; for a teacher it is the school and so on. The principal offices of this employer, the location where he is paid or from which the pay is issued are not usually relevant in determining the location of income from an office or employment. In some cases it will be found that employment is partly on and partly off the reserve. In these cases a reasonable allocation must be made between exempt and taxable income, based on the facts of the particular case.
- (ii) Business income is normally allocable to the permanent establishment for example, for a self-employed merchant it would be at his store.
- (iii) Rental income is earned at the location of the property rented.
- (iv) Interest on a bank account is earned at the location at which the funds are deposit, i.e. the specific bank branch address.
- (v) Dividends on shares from a company whose head office, principal business activity, and share-register are on a reserve will normally be considered to be earned on the reserve.
- (vi) Income from other sources is generally considered to be located at the payer's principal place of business for purposes of determining whether or not it is on a reserve. This general rule will apply to such amounts as annuity payments, unemployment insurance benefits, old age security payments and supplement, scholarships, bursaries, pension, and Canada Pension Plan benefits.

The Department's interpretation of salary and wages came under attack in the Nowegijick case cited earlier. The case of *The Queen v. National Indian Brotherhood*, 78 D.T.C. 6488, examined whether an Indian is taxable on wages received from a company whose head office is off the reserve, where the Indian works off the reserve and is paid off the reserve. In examining counsel's contention the salary was situate on a reserve, Thurlow C.J.A. said:

a choice in action such as the right to a salary in fact has no situs. But where . . . it is necessary to attribute a situs, *in the absence of anything in the contract* (emphasis added) the situs is . . . the residence or place the debtor is found.

What is not clear is the result in the situation where the payor may have a branch or representative of the payor on the reserve. The National Indian Brotherhood Case cited, with approval, the case of *New York Life Insurance Co. v. Public Trustee* (1924) 2 Ch. 101 at page 119, in which the locality and residence of a debtor corporation was discussed and found that it could be in more than one place. The situs of a salary received from a company would be the place where the company carries on business and where the salary or debt is payable to the employee.

The next case of consideration is that of Russell Snow, a 1979 decision of the Federal Court of Appeal. Russell Snow was an Indian who resided on the reserve and was employed as a steelworker in the U.S. in 1969. He returned each weekend to the reserve. The Minister assessed tax on the income earned outside the reserve. Russell Snow contended that his wages were personal property on the reserve by virtue of the Indian Act and thus fell under the exemption of that Act. The Tax Review Board listed in some detail the submissions of the appellant Russell Snow. In deciding that tax was payable (74 D.T.C. 1255), the Board said the appellant's submission as to personal property on the reserve was far fetched. The Board additionally appeared to say the Income Tax Act applied "to every person resident." The Board felt the application of the Indian Act in this case was strictly limited. The Indian Act only discussed Indians' status and rights. It was silent on income tax specifically. He stated:

Because the Income Tax Act taxes all the residents of Canada and does not exclude the Indian as an actual taxpayer and as the Indian Act is completely silent on this important matter of income tax, it is self-evident that an Indian falls under the Income Tax Act . . .

Needless to say the decision was appealed.

The Federal Court Trial Division (78 D.T.C. 6335) considered the problem. The reasons for judgment note that at the hearing the Department conceded the Board was wrong in respect of salary or wages earned for service performed on the reserve (with no mention of whether the place of payment mattered). The Court narrowed the issue down to whether the wages were situated on the reserve. The appellant's counsel attempted to argue off-reserve earnings become situate on the reserve by the time the income tax is applied to them (i.e. at the end of the taxation year). As well, he submitted that moveables are subject to the general situs rule of domicile of the owner. The Court could not agree with these points. The property at the time earned, was situated in the U.S. and non-reserve parts of Canada. The Court quoted large sections of previous cases confining the exemption of wages earned on the reserve.

In the Federal Court of Appeal, 79 D.T.C. 5177, the Court clouded the issue as refined by the Trial Division with the observation that Section 86 (now Section 87) was restricted to specific personal property as property and not taxation in respect of taxable income, as defined by the Income Tax Act. This was cast into doubt by the Nowegijick case cited earlier under the "personal property" sec-

tion. As noted there, on appeal to the Supreme Court of Canada, Dickson said the exemption of Section 87 creates an exemption for both persons and property. It is uncertain what result would have been obtained had the Russell Snow case gone to the Supreme Court of Canada. If we took seriously Dickson's comment that "statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indian," we might conclude that even if the Indian were paid off the reserve the exemption would still apply.

Reserves

The exemption applies to "reserves." The Indian Act (R.S.C. Chapter I-6) Section 2(c) defines "reserves" as:

. . . a track of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band . . .

Section 8 specifies reserves are to be held by Her Majesty for the use and benefit of the band. Subsection (2) permits the Minister to authorize the use of lands for some purposes and, subject to the approval of the band council, for other purposes. Section 36 defines special reserves as being lands set apart for the use and benefit of a band with legal title vested in someone other than Her Majesty. Sections 20 to 29 outline the scheme of property on a reserve. An Indian obtains "possession" of the lands through allotment by the band council, with the approval of the Minister (Section 20[1]). A Certificate of Possession may be issued. The right to possession of the land may be transferred to the band or another member of the band but none is effective until it is approved by the Minister (Section 24). Any deed, *lease*, contract, instrument, document, or agreement . . . by which a band or Indian, purports to permit a non-Indian to use, reside, or occupy land on a reserve is void (Section 28[1]). However, provision exists to authorize *any* person to occupy, use, reside or otherwise exercise rights on a reserve for a period with Ministerial approval and if the period is longer than one year with band consent.

The Indian Act also defines and regulates surrendered lands — "surrendered lands" are defined as:

. . . a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.

Sections 37 to 41 outlines the process of surrendering lands. Section 37 prohibits the conveyance of lands until they have been surrendered to Her Majesty by the band. By three decisions, *St. Catherines Milling v. The Queen* (1889) 14 A.C. 46, *A.G. for Quebec v. A.G. of Canada* (1921) 1 A.C. 401, and *Ontario Mining v. Seybold* (1903) A.C. 73, the Privy Council decided the lands were surrendered to the provincial Crown.

It was necessary, therefore, that the Federal Government conclude agreements with the provinces to reverse the ruling in order to prevent the frustration of Indian reserve policy. Section 39 specifies surrenders must be made to Her Majesty, accepted by the Governor in Council and assented to by a majority of the electors of the band. Section 38 permits surrenders to be conditional or qualified while Section 41 deems surrender to confer all rights necessary to enable Her Majesty to carry out the terms of the surrender. Sections 53 to 60 discusses the Management of both reserves and surrendered lands. Sec-

tion 53 allows the Minister and his designate to manage, sell, etc., surrendered lands in accordance with the Act and the terms of surrender. Section 55 establishes the Surrendered Lands Register. Section 58(1) (b) and (3) discusses the possibility of a reserve land, in the lawful possession of an individual, being leased for any purpose. Although the wording of Section 58(2) appears to restrict (1)(b) to improvement or cultivation, (3) allows the Minister to lease for benefit of Indian in possession on his application, any land without being surrendered.

The exemption of Indians from tax has a territorial dimension. It becomes important to determine whether surrendered and leased lands continue to be part of the reserve. The Interpretation Bulletin notes that part (b) of the exemption is worded "on a reserve" which is different from the wording of (a) which says "reserves and surrendered lands." The Bulletin in part states:

In the interest of equity the Department of National Revenue takes the view that in certain circumstances surrendered lands continue to be a 'reserve'. Where the surrender is conditional and the band retains reversionary rights to the lands in question, those lands will normally be considered by the Department to remain as reserves, particularly if the use to which they are put is determined by the Governor in Council to be for the use and benefit of the band pursuant to Section 18(1) of the Indian Act. This could apply when the lands are leased to an outsider for a specified term but would not, of course, apply if the lands were sold since legal title would no longer vest in Her Majesty.

Sanders points out that the Indian Act from 1868 to 1951 said surrendered lands were not part of "reserves." "Indian lands" were defined to include both reserves and surrendered lands. The 1951 Act definition of reserves does not mention surrendered lands; however, the separate definition of surrendered lands and the abandonment of the Indian lands definition leads one to believe the two are separate. One point not addressed in the legislation is the possible status of conditional or qualified surrendering when the condition is not met. We have already seen National Revenue's position cited earlier.

A further problem arises with the special reserve. The Act is to apply to these as if they are reserves. Can private groups set aside lands for the use and benefit of a band and thereby take advantage of the exemption from tax in the Act? The position of the Interpretation Bulletin leads one to conclude that Indian lands surrendered, but not sold, could still have the exemption but special reserves resulting from an oil company setting aside land "for the use and benefit . . ." which are not owned by Her Majesty would not receive the exemption. It will be frequently pointed out that an Interpretation Bulletin only outlines the National Revenue's view of the law and is not necessarily the law itself.

One aspect of surrendered lands was partly addressed in *Surrey v. Peace Arch Enterprises* (1970) 74 W.W.R. 380. The applicability of provincial zoning legislation on surrendered lands was questioned. The British Columbia Court of Appeal decided that provincial laws do not apply since surrendered and leased lands were still within federal jurisdiction as "Lands reserved for the Indians." A further section of interest is Section 88 which states:

Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect to Indians in the province except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or bylaw made thereunder, and except to the extent that such laws make provision for any matter which provision is made by or under this Act.

The exact result of Section 88 is unclear. Laskin C.J., S.C.C. held in 1975 *Natural Parents v. Superintendent of Child Welfare* that it incorporated certain provincial laws but Morland J. said it was declaratory of the extent to which provincial laws apply to Indians:

In my opinion, Section 88 does not have the effect of converting provincial legislation to federal legislation whenever it applies to Indians. Section 88 simply defines the obligation of obedience that Indians owe to provincial legislation. Parliament is neither delegating legislative power to the province nor adopting provincial legislation as its own by declaring in Section 88 what was true before Section 88 existed, namely: Indians are not only citizens of Canada but also citizens of the province in which they reside and are in general to be governed by provincial law.

If the Section is merely declarative then the usual rules of conflict of federal and provincial law apply: a) Laws must be of general application and not single out reserves for special treatment. Provinces cannot pass laws in respect of reserves. b) Provinces cannot pass legislation affecting reserves as reserves. An example of invalid legislation is a Land Use or Planning law. c) Provinces cannot pass legislation in conflict with the Indian Act. Such laws may fall into what is known as a "double aspect" area where both levels of governments may have power to legislate but because the Federal Government has legislated the field is occupied. Courts have validated provincial legislation where the field was not completely occupied leaving some scope for provincial legislation.

II. Fiscal Instruments Applicable to Indian Oil and Gas

This section considers the application of the principles discussed in the first part of the paper to the various taxation instruments.

A) Income Tax

i) Royalties Received by Indians

Royalties received by Indian bands for the sale of resources are not taxable by virtue of Section 87, resources being the personal property of the Indians. As an additional point, Indian royalties are one exception to the rule of non-deductibility of royalties, paid to Her Majesty. Royalties usually are non-deductible by Section 12(1)(o) and Section 18(1)(m) of the Income Tax Act. However the sections read "any amount (other than a prescribed amount)."

Regulation 1211 prescribes:

. . . a) Amount paid to, . . .

i) Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the Indian Act, . . .

Thus, Indian royalties are deductible in computing income subject to tax. Presumably Indians are able to extract

a higher royalty on their land than the Crown because of this feature.

ii) *Income Tax — Partnerships*

Partnerships are accorded a quasi-status in income tax law. Partners are taxed individually and the partnership is seen as a conduit. Gains and losses, capital cost allowance etc. are first determined at the partnership level and then partners are assigned their share of gains, etc. Section 96 deems the partnership to be a person only for the purpose of calculating income. The individual partner must then include in his income his share of income from the partnerships of which he is a member. Whether a partnership, or rather a particular partner, could take advantage of the Indian Act exemption would depend on the considerations already discussed above. The income that would be received would be from the "partnership interest." The income would either be income from property or from a business. Referring back to Revenue Canada's Interpretation Bulletin, income from property would be located where the property is located. The Bulletin does not address property income as such but discusses rental income, bank account interest, and dividends as being located where the property, branch, or share register is located. Business income would be allocable to the permanent establishment which, in the situations with which this paper is concerned, is either the well or the substantial equipment of the processing plant or refinery. Thus income from a well or refinery on an Indian reserve is not taxable to Indian partners, while income from a well or refinery off the reserve is taxable to the Indian partners of a partnership.

A possible problem might occur if a partnership business receives both on and off reserve income. Section 4 of the Act, read in conjunction with paragraph 6(g)(i) of the Interpretation Bulletin, suggests that the two sources are separate; one would be non-taxable, the other taxable, rather than the taxable income "tainting" the total income. Against Revenue Canada's interpretation on situs, is the decision in *The Queen v. National Indian Brotherhood* discussed above. If Thurlow's decision is taken to mean that one can contract out of a situs for a salary, it is open to contend that situs for the receipt of a business or property payment might also be altered by contract. If that interpretation was correct, then all income would be non-taxable if the contract provided for payment on the reserve regardless of actual situs.

iii) *Income Tax — Joint Ventures*

Joint ventures appear to be similar to partnerships in that individuals join together in a fashion that does not create a new entity such as a corporation. The term enjoys wide commercial usage but is without precise legal description. One definition reads (from Williston on Contracts):

... association of persons, natural or corporate, who agree by contract to engage in some common, usually ad hoc undertaking for joint profit by combining their respective resources, without forming a partnership in the legal sense, or a corporation.

The courts have added additional requisites deemed essential:

- a) The contribution of money, property, effort, knowledge, skill or other asset.
- b) A joint property interest in the subject matter of the

venture.

- c) A right of mutual control or management of the enterprise.
- d) An expectation of profit, or the presence of "adventure" as it is called.
- e) A right to participate in profits.
- f) limitation on the objective to a single undertaking or ad hoc enterprise.

One reason for distinguishing between the joint venture and the partnership is taxation. A partnership must compute income for tax purposes at the partnership level and must claim certain deductions at that level. Joint ventures divide revenues in proportion to their interests and claim their own costs. Income is determined separately, property used in the venture is treated as being directly owned by the participants in undivided interest. The practical usefulness of the joint venture in the Indian situation would be to avoid any of the problems that may occur with partnerships, for example, whether it is an Indian etc. Indian groups could co-venture with others without risking the ability to obtain the exemption from taxation. The coventures, naturally, would not be eligible to claim the exemption.

iv) *Income Tax-Trusts*

The general rule for the taxation of trusts is that income of the trust is not taxable to the extent that it is allocated to beneficiaries. Division B(k) (Sections 104 to 108) deals with the Income Tax Trust rules. Income retained in the trust (as long as it is not a testamentary trust) would be taxed at a combined federal-provincial tax rate of 50 percent. Income distributed by a trust or deemed to be distributed by the trust, by operation of 104(24) where the beneficiary is in that year entitled to enforce payment, is not taxed in the hands of the trust (i.e. the trust deducts the amount from its taxable income), but taxed in the recipient's hands as regular income. For income tax purposes, the trust is simply a conduit and the money, as received, retains its character as dividends, interest, capital gains, etc. (in most cases).

Another possible situation results from the preferred beneficiary election. A preferred beneficiary defined under Section 108(1)(q) is an individual resident in Canada and is the settlor, spouse, child, grandchild, or great grandchild of the spouse. Sections 104(12) and (14) together provide that the trust and a preferred beneficiary jointly elect in the manner specified by regulation, that all or part of the preferred beneficiary's share of the accumulating income of the trust will be included in the beneficiary's income and will be deductible by the trust. Section 104(15) provides rules regarding the share of accumulating income attributable to a beneficiary.

Most of the situations above involve "family type" situations and would likely not be of concern in consideration of oil and gas income from reserves. Because the exemption from tax applies only to property on the reserve, the residence of a trust becomes important. Interpretation Bulletin No. 447 discusses the residence of a trust. A trust is generally considered to reside where the trustee, executor, etc. who manages the trust, or controls the trust assets, resides. For trusts with more than one trustee, if one trustee clearly exercises a more substantial portion of the management and control than the others, the trust resides with that principal trustee. Otherwise the trust is resident where the majority of trustees reside. Interpretation Bulletin No. 447 stresses that the beneficiaries' and set-

tlor's residence are not relevant unless a substantial portion of the management and control rests with the beneficiaries or settlor.

v) *Income Tax — Corporations*

This situation is clear as the Interpretation Bulletin No. 62 points out. A corporation cannot meet the definition of being an Indian in the Act. Corporations, wherever situated, would be taxable and, thus, dividends to non-Indians would be taxable and would also be eligible in the appropriate circumstances to the dividend gross-up and tax credit. Dividends to Indians would be taxable if the head office i.e., "the situs of the shares," is off the reserve.

To avoid the corporate tax, the company could ensure it has no profits; i.e., large wages, director's or manager's fees could reduce corporate taxable income to zero, and since the wages or fees would be payable to Indians these would be non-taxable according to the rules outlined above. Section 68 of the Income Tax Act prevents the deduction of unreasonable expenses and would restrain the potential of such an arrangement.

B) *Royalty Instruments*

Royalties may be imposed pursuant to either provincial or federal legislation. The term royalties will be used broadly to include "royalties" proper, that is, the gross or net charge on production which is due to the province being the proprietor of the resource, and direct taxes designed to capture rent from the exploitation of privately held resources. The latter can take two forms: a) the province can use the power of direct taxation uniformly against both private and Crown property which results in the same amount collected from both sources, like the Ontario Mining Tax, b) or the province may use its taxation power against private property only to duplicate in structure the Crown royalty scheme. An example of this is the Alberta Mineral Rights Tax.

Problems can occur with the latter type of royalty. "True" royalties paid to the province as proprietor do not have any impact on Indian lands because the province would not be the proprietor. Generally applicable taxes or freehold levies designed to capture a royalty share of resource earnings within a province may impact harshly on Indian lands. Indian royalties, because of their income tax deductibility, may be higher than the corresponding freehold tax. As well, a mineral income tax might only allow royalties paid to the provincial Crown as a credit or deduction. This issue was the subject of meetings with the Sweetgrass Indians of Saskatchewan.

In 1973, Saskatchewan, with its much higher proportion of freehold production, imposed a tax on windfall revenues from freehold production. In 1978 the Supreme Court in the CIGOL case ruled such a tax as indirect and, therefore, *ultra vires*. Saskatchewan subsequently imposed the Oil Well Income Tax, which taxed income, i.e., a direct tax from all wells including those on Indian reservations. It was designed to collect revenues at rates applicable to Crown production after making allowance for average freehold royalties (much lower than Indian royalties). Alberta's Freehold Mineral Rights Tax does not apply to Indian lands. With the change in the constitution adding Section 92A, indirect taxes can now be levied by provinces, and the CIGOL precedent is no longer relevant. Saskatchewan has since imposed a Freehold Mineral Tax which no longer applies to Indian lands. Ontario, on the other hand, continues to have a lowrate Mineral Income Tax.

C) *The Petroleum and Gas Revenue Tax*

The Petroleum and Gas Revenue Tax (PGRT) is imposed pursuant to the Petroleum and Gas Revenue Tax Act. Section 79(2) reads in part "all words and expressions used in this part and not otherwise defined have . . . the same meanings as in the Income Tax Act," and Section 79(5) states, "tax imposed under this Part shall be deemed not to be an income or profits tax, a surtax or an excess profits tax." Despite that, it is clear that if the requirements for non-taxability of income are met in a situation, then the PGRT would not apply, not being a tax "in respect of property on the reserve" (i.e. Indians producing oil or gas on their own reserve). The same considerations under income tax are applicable here: If an Indian is the producer, the Indian is non-taxable. A corporation cannot be an Indian, so it would be subject to PGRT even when operating on Indian lands.

A less clear situation is that of a partnership. Although the Act makes each individual partner liable for payment and filing, Revenue Canada have administratively allowed the general partner to make installments and file a return on behalf of the whole partnership. However, each corporate partner in the partnership can claim the \$250,000 PGRT credit on their working interest income. It might be possible for an Indian corporation to take advantage of the limited liability of a corporation and yet to pay little PGRT by paying the shareholders, in their capacity as the resource owners, the royalty. That is, the corporation pays the usual (or a higher) royalty to the Indian band (which just happens to own the corporation). A similar effect would result if their operating costs were high due to high wages paid to Indians, thus reducing the revenue subject to tax, although Section 68 of the Income Tax Act would probably prevent the deduction of an unreasonable expense. In the case of a producer on Indian lands, the Indian royalty is deductible from the revenue subject to PGRT by Section 82(1)(i) (prescribed amount — SOR82-503 Section 4 prescribes Indian royalties).

D) *The Natural Gas and Gas Liquids Tax*

The Natural Gas and Gas Liquids Tax (NGGLT) imposed pursuant to the Excise Tax Act raises some interesting problems. The principal question to be answered is who owns the gas at the "tax point" i.e. the "place" where the tax is imposed. Taking gas and gas liquids separately, Part IV.I defines brokers, distributors and gas producers. A *producer* produces gas; a *distributor* "carries on the business of selling marketable pipeline gas at least 50 percent of such sales being to consumers in Canada"; *brokers* are sellers of gas other than producers or distributors.

Subsection 25.1(2) deems exporters to be distributors if no tax has been paid. The NGGLT is set at zero for exports for agreeing provinces. Subsections 25.1(3) to (6) further deem others to be distributors. Subsection 25.1(8), however, says: "where a producer produces and sells marketable pipeline gas to consumers in Canada, he is deemed not to be the distributor." The thrust of all the definition sections is to create "distributors." Section 25.13(1) requires that tax will be imposed on the receipt of gas by a distributor. Subsection 25.13(2) requires tax imposed on receipt of gas by consumers from a producer or broker. Subsection 25.13(6) states:

The tax imposed under this section is payable by the distributor or consumer, as the case may be, at the time he receives the marketable pipeline gas.

It is the case that if production from Indian lands were sold to a distributor, the *distributor* would be liable for the NGGLT. If the gas were sold by the producer directly to the consumer, however, the *consumer* would be liable. It would appear that, generally, the NGGLT is applicable to all production save that produced and consumed by Indians on the reserve. (This is "personal property" of an Indian "on the reserve" and, thus, non-taxable.)

Another NGGLT avoiding possibility may arise where the Indian takes delivery on the reserve and uses it off the reserve. At the "tax point" the Indian is non-taxable, and no further "tax point" occurs. A further stretching of the letter of the law would involve an Indian distributor acquiring gas on the reserve and selling to non-Indian consumers off the reserve. The tax point would occur on the reserve between two exempt persons. Presumably the arrangement should be such so as to avoid the appearance as a complete "tax sham."

Non-Indian consumers could not avoid tax by buying directly since they would be buying from a "producer" not a "distributor." Another setup worthy of consideration is the situation of a non-Indian farm-in on Indian lands. The gas produced would be sold to an Indian distributor who would then sell to consumers. Since the tax is levied on the distributor who in this case is exempt, it would appear that this type of arrangement would avoid tax as well. If there was a desire to exempt Indian production generally regardless of purchaser Subsection 25.13(3)(c) provides for a NGGLT exemption for gas originating at a prescribed source or that is consumed in a prescribed use.

The Gas Liquids part of the tax, for technological reasons has a different "tax point." Subsection 25.14(1) taxes the "first receipt" of natural gas liquids. Subsection 25.14(5) has the tax payable at the time the liquids are removed and by the person who owns them at that time. Unlike the NGT, there is not a section imposing tax at other tax points, although Subsection 25.14(3) suggests that there might be more than one "first receipt." Indians would be non-taxable in respect of their property on the reserve, if the Indian owned gas is processed on the reserve and if the liquids are "first received" there. They would presumably be untaxed after that.

Here again the considerations raised with respect to the application of PGRT and Income Tax to business entities are applicable. As far as a corporation is concerned, it is unable to be classified as an Indian, so an Indian owned corporation would be subject to the NGGLT. Partnerships raise the same problems as in the PGRT discussion. A partnership, if it is an entity, could not be an Indian any more than a corporation could be and, thus, it would be subject to the NGGLT.

E) *The Manufacture's Sales Tax*

There is a general sales tax of nine percent applicable to all manufactured or imported goods. This is scheduled to be raised to ten percent on October 1, 1984. The tax is applicable to the manufacture of gasoline and other refinery products (except home heating oil and those products sold for use in a further production process). It is imposed on the manufacturer/wholesaler and differs from the provincial sales tax in being an indirect tax. Indians have asked for the tax exemption on goods purchased from non-Indians. Revenue Canada's position on the issue has been that the tax is imposed on the manufacturer not the purchaser. It might be argued that anything an Indian

manufactures and sells on the reserve should be exempt using the justification that it is personal property on the reserve at the time it is taxed. However, Revenue Canada's practice has been that if both the vendor and the purchaser were Indians, (in the particular example the goods were canoes) the exemption applied, otherwise the exemption would not apply and the non-Indian purchaser would end up indirectly paying the tax. Whether Revenue Canada's interpretation with respect to an Indian purchaser or seller stands up to Dickson's comment in the Nowegijick case, of liberally construing Indian legislation and resolving doubt in favour of the Indian, remains to be seen.

F) *The Petroleum Incentives Program*

The Petroleum Incentives Program (PIP) is designed to give explorers grants in respect of eligible costs. PIP Regulations Section 5(1) says every person is qualified to receive an incentive unless in the list in Section 5(2). Section 5(2) disqualifies those who are exempt from Income Tax Act Part I by virtue of para. 149(1):

- a) employees of other countries
- b) servants of (a)
- c) municipality in Canada, or a municipal or public body performing a function of government in Canada
- d) Crown corporations
- e) agricultural organizations, boards of trade or chambers of commerce
- f) registered charity etc.

Since Indians are non-taxable by virtue of the Indian Act, and not by Section 149 of the Income Tax Act, it follows that they qualify for the incentives. It could be argued in the case of a band council exercising "municipal functions," that the council is a "public body" described in Section 149(1)(c) and thus ineligible. Indeed Interpretation Bulletin IT-62 notes that "municipality" is not defined in the Income Tax Act and must be assigned its common usage. The Department concludes that the important qualifying factor is that of local self-government.

Point 10 of IT-62 notes that Section 83 allows the Minister to decide when a band is in an advanced state of development and to allow it to raise money by taxation and licencing of businesses, callings, trades, and occupations. Point II says these powers and those of other Canadian municipalities are so similar that band councils *will* be treated as municipalities for purposes of Section 110(1)(a)(iv) and 149(1)(c) of ITA. Again it should be noted that Bulletins are the Department's view of the law and not necessarily the courts'.

Two other issues arise. The first is the degree of Canadian ownership rate (COR) and control status (CS). Indians, Indian corporations, partnerships and bands would have 100 percent COR and 100 percent CS, although an interesting situation occurs with those few Indians who, by treaty, are entitled to move from the U.S. to Canada and back without interference from Customs and other government agencies. Would they be 100 percent Canadians or would a band council with these Indians be entitled to a full COR (this may not be a problem if less than 25 percent of the partnership or band is in the doubtful category since the boundary for full PIP is 75 percent COR).

The other issue involves the possibility of "Canada Lands" status for reserves within a province. Section 2 of the PIP Act restricts the definition of "Canada Lands" to lands belonging to Her Majesty in right of Canada . . . that

are in the Yukon, NWT, Sable Island, or offshore. Thus, Indian lands which belong to Her Majesty in right of Canada but which are not in the Yukon, NWT, or offshore do not qualify for the "Crown share incentive," nor are they subject to the 25 percent Crown share back-in of Section 27 of the Canada Oil and Gas Act.

Sol Sanderson, President of the Federation of Saskatchewan Indians, along with several chiefs of Saskatchewan Indian bands, have made the argument that Indian resources should benefit more substantially from the PIP Program by having Indian lands treated as Canada lands. This has been dismissed on two counts: Exploration on reserves in Saskatchewan does not have the high risk associated with frontier areas, and the lands already receive an advantage from the federal fiscal system. Indian royalties are an allowed deduction in the calculation of PGRT and Income Tax, and Indians are not subject to tax. On the other hand, exploration on Indian lands within a province does not generally qualify for any provincial incentives and would be at a disadvantage relative to provincial Crown and freehold land.

G) *Petroleum Compensation Charge*

The Petroleum Compensation Charge is imposed pursuant to the Energy Administration Act Part III.1. Section 65.12 imposes a charge on each cubic metre of *domestic petroleum* received for processing consumption and each cubic metre of *foreign petroleum or petroleum product* imported into Canada for processing, and consumption.

Domestic petroleum is a mixture of hydrocarbons produced from a natural reservoir or produced, extracted, recovered or manufactured in Canada other than from a natural reservoir. Indian production would qualify as domestic production. Section 65.12(2) imposes the charge on the processor or consumer in the case referred to in Section 65.12(1)(a), (1.1)(a) or (1.2)(a), or on the importer in the situations described in (1)(b), (1.1)(b) or (1.2)(b).

Some uncertainty is created by the use of the word "charge." If it had said "tax," then one could argue, as in the NGGLT case, that if petroleum is received for processing or consumption on a reserve then this is a tax in respect of that property and thus inapplicable. A "charge" however is different. The courts have considered whether a "charge" or levy is a tax and have taken the position that it is a tax if: 1) it is enforceable by law, 2) imposed under authority of the legislature, 3) imposed by a public body and 4) imposed for a public purpose.

In *Reference re Tax on Foreign Legations* (1943) S.C.R. 208. Duff C. J. took the view that a charge (as against a tax) must be such that it can be plausibly argued that it is taken in payment for certain specific services rendered directly to the individual who pays them.

In *Société Centrale D'Hypothèques v. Cité de Québec* (1961 Que Q.B.661) Quebec city was claiming charges against a federal agency for snow removal. If it was really a tax Section 125 (the intergovernmental analogy to Section 87 of the Indian Act) would apply and make the charge illegal. The judges of the Quebec Queen's Bench were prepared to hold that the levy was a tax, not a charge. It was obligatory and based on the value of the land rather than on services rendered. Since there are no services rendered to the charge payor in the exchange for the charge, a court would see it as a tax, raising revenue for public purposes.

The Petroleum Compensation Charge (PCC) would not be imposed on the receipt of Indian owned oil by a refinery, that is also owned by an Indian on the reserve, since

the charge would be a tax on personal property owned by an Indian on the reserve. There is no provision to tax the output of the refinery (the products) since the charging section only talks of domestic petroleum. Contrast the requirement of a charge on foreign petroleum or *petroleum product* in the case of imports. A refinery owned by an Indian person could then sell the output with no PCC ever paid. The other side of the PCC is the Cost Compensation of Part IV of the Act. Section 72 authorizes the payment of compensation to petroleum pursuant to regulations. The Petroleum Compensation Program Regulations SOR/82-813 outline how oil is to be compensated. Presumably, if an Indian band has conventional new oil or tar sands production, the production would be compensated. A question arises from the various designations in Section 1 of Schedule I of the Regulations, for example, "oil from an experimental project" and heavy oil from a "drilling spacing unit" when these terms are defined by reference to the Oil and Gas Conservation Regulations (Alberta) which does not apply to Indian lands. The definition would have to be broadened if we wished to compensate "experimental projects" in Alberta and also on Indian Lands.

H) *The Canadian Ownership Special Charge*

The Canadian Ownership Special Charge is imposed pursuant to the Energy Administration Act Part III.2. In the case of gas, Section 65.22 "piggybacks" onto the NGGLT as an extra charge. The discussion under the NGGLT above is applicable here as well. In the case of oil, Section 65.21 imposes "a charge" on "petroleum" received for processing or consumption.

The same considerations of charge discussed under PCC are applicable here and the conclusions are the same. Since there is no service rendered to the payor by the payee in exchange for the charge (except of course in the end result of a higher degree of Canadianization paid for by the ultimate bearers of the tax), a court would likely see it as a tax, raising revenue for public purposes. Thus, for a refinery on Indian lands, petroleum delivered by Indian production could escape the COSC. The tax point is the refinery gate and the product to be charged is petroleum. There are no provisions to tax exempt refinery output, so Indian refined oil products would escape the COSC.

I) *Provincial and Federal Sales and Excise Taxes*

According to the paper by Sanders there is no consistency in the applicability of provincial sales taxes to Indians. Saskatchewan and Nova Scotia exempt *all* Indian purchasers. Ontario and Quebec exempt purchases when the goods are to be delivered on the reserve. The area illustrates a federal-provincial division of power. By Section 91 of the Constitution Act, the Federal Government has been given the authority to legislate in respect of Indians. This power, as mentioned earlier, does not mean that all provincial laws are not applicable but only that those that do not conflict will be applicable, and those that do conflict will not.

Two Quebec cases in the 1940s dealt with sales to Indians and non-Indians by Indians on a reserve. In *R. v. Groslovic* (1944) 81 C.C.C. 167 the court deemed a sale to a non-Indian was "off the reserve." In the *R. v. Williams* case (1944) 82 C.C.C. 166 the court argued that the provincial tax law did not conflict with the Indian Act. A recent case in British Columbia clarifies the position somewhat but not completely. *Leonard v. R.* involved the chief of a band bringing a petition to exempt the band

members from the Social Service (Sales) Tax of B.C. in respect of purchases from retailers occupying conditionally surrendered land. The court decided once surrendered, (even if only conditional) the land had ceased to be a reserve for the purposes of the Indian Act and therefore provincial laws of general application would apply. The reasoning does not state what the results would be on unsurrendered lands. Again, consideration should be given to possible changes in interpretation due to Dickson's comment in *Nowegijick* of resolving doubt in favour of the Indian and liberally construing such special legislation such as the Indian Act.

This decision may be seen to conflict with the *Surrey v. Peach Arch Enterprises* case (1970) 74 W.W.R. 380. At issue in that case was whether surrendered and leased lands were part of the reserve. The B.C. Court of Appeal ruled that the surrendered and leased land was still within federal jurisdiction over "Lands reserved for the Indians" and therefore provincial zoning legislation that would conflict with zoning bylaws passed by the band council would not be applicable. However, *R. v. Baert Construction* (1974) 19 C.C.C. (2d) 304 was concerned with the applicability of provincial minimum wage laws. The Manitoba court ruled that the federal laws had not so occupied the field as to prevent the provincial laws from applying.

Sanders, in summing up, says provincial taxing law will apply so long as it does not interfere with the tax exemption of the Indian Act or the conveyance of property interests envisaged by that Act. Land cannot be taxed but the occupier, should he be non-Indian, can be. Provincial sales tax would apply to non-Indian purchasers and perhaps now, with the Leonard decision, to Indian purchasers from unconditionally surrendered lands. If, however, Section 88 of the Act is merely declarative, it could be argued that the provinces can tax Indians on the reserve. Such an argument would proceed as follows. The Federal Government not having occupied the field (or at least not completely) leaves scope for the provincial power. Section 87 prohibiting taxation of Indians with respect to their property on a reserve may be *ultra vires* insofar as it attempts to restrict the province from levying an otherwise valid tax. The Constitution Act gives the Federal Government the power to legislate in respect of Indians and Indian lands but not the power to exclude groups from the application of the provincial laws.

J) Oil Export Tax

The Oil Export Tax is imposed pursuant to the Energy Administration Act Part I. It is levied on the exporter under whose licence the oil is exported. A person who exports oil, on which a charge is imposed under this Part in circumstances in which there is no exporter liable under this Part to pay that charge, is liable (Section 10[2]). It seems clear that Indians who obtained a licence to export, would be liable for the tax as it crosses the border and ceases to be property on the reserve.

The more interesting policy question arises from Section 17.1(1)(b) which, in its present form, allows the Minister of Energy, Mines and Resources to share export tax revenues with the appropriate provincial government, or its agents, in respect of oil from that province. If oil from an Indian reserve is exported, Indians could argue that since they receive royalties, their position is the same as the provinces with their Crown oil and freehold oil (which is subject to Section 92[A] tax). Acceptance of this argu-

ment would elevate the band to the status of a provincial government as far as resource revenues are concerned. Such a position might be accepted if it were desirable to accord Indian reserves such a quasi-provincial status, with all the potential constitutional ramifications. If the sole reasons for such a move were to increase Indian revenues from resources, then perhaps granting them some of the exemptions allowed under the various taxation acts mentioned in this paper might be more appropriate and less precedent setting.

K) Provincial Geophysical and Exploration Incentives

A few provinces have established schemes which provide exploration incentives. These incentives can take the form of the waiver of otherwise payable royalties or freehold taxes for an initial period of time or as a direct incentive credit for each metre of qualified drilling. The credit may be applied against royalties or may be refundable in cash. In Saskatchewan grants are given based on "approved expenditures."

While such schemes do not preclude operating on Indian Lands, the same comment made with respect to the Petroleum Compensation Program applies. Most of the schemes refer to criteria defined by provincial legislation or provincial resource management boards. Whether Indian lands not subject to those regulations qualify is not clear. The relief from paying royalty is irrelevant since producers on Indian lands do not have to pay provincial Crown royalties anyway. As noted above, under the PIP section, the asymmetric treatment of Indian lands within a province may require some clarification.

SECTION III

Corporate Viewpoints, Needs and Resources

MODERATOR:

George Thomas
Indian Land Coordinator
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Corporate Viewpoints, Needs and Resources: Non-Renewable Resources

by

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Each of the three groups represented at this conference, Natives, Government and industry, has its own special needs and resources. In the simplest terms:

Natives have the knowledge, skills and talents, but need training and jobs.

Governments have training capabilities and the funds to provide support to Natives and industry, but require economic development.

Industry has expertise, capital and equipment, but needs trained and skilled manpower.

On the surface, it would seem to be a relatively straight forward matter to match the available resources with the needs so everyone could be satisfied. Unfortunately, the result of many previous attempts to do so have been disappointing.

I would like to express a few of my opinions on how we might better coordinate our efforts to meet our various objectives, and I would like to describe to you our example of what can be accomplished when the resources of Natives, government and industry are successfully combined.

Industry

I think that time has come for industry to acknowledge that we have a major responsibility for involving Natives in the growth and development of the Canadian economy. So far, we have generally overlooked the full potential of Native people as human resources, and this is surprising in view of the fact that the one thing industry cannot tolerate, is a wasting of valuable resources.

Our position on Native involvement at Nova is that all Canadians should be represented in our work force and among our suppliers. To date, Natives have been under represented, and we are therefore, making special efforts to include them in our activities. We feel that these efforts have been repaid in full, since our experience has been that Natives are dependable and loyal employees capable of doing the jobs we need done, and reliable suppliers of the goods and services we require.

I do recognize that Natives sometimes experience difficult adjustments when they choose to work in industry. Consequently, industry must develop innovative programs to assist Natives in making this transition. Of course, since innovation is what keeps us all in business, this should not present a major problem to us. In addition, industry must be flexible enough to ensure that all Native people have opportunities to participate, regardless of their cultural backgrounds or preferred lifestyles. The easy approach of trying to force Natives into "one size fits all" programs is best avoided. Some encouraging steps have already been taken in this direction by many resource development companies in the form of special recruitment, counselling, training, rotating and commuting, and business opportunities programs.

Innovative Native programs and policies are only so much window dressing, however, unless they have firm support from industry's senior management. Nova's President, Mr. Robert Blair, is strongly committed to involving Natives in all of the Company's activities. There is no doubt in my mind that the key factor in the successes we have enjoyed with out Native initiatives is this strong commitment at the senior most level of the Company.

Something which often puzzles me is the attitude toward Native involvement that is adopted by some companies. These companies implement Native programs only for particular projects or in response to specific legislative requirements. They are not prepared, however, to make such programs part of their overall corporate objectives. In my opinion, this indicates a minimal commitment to Native participation in industry which will produce limited results. Native participation is one of Nova's corporate goals, along with profitability, stability, growth, and all the other usual goals of any business enterprise. As a result, our Native employment and business opportunities policy applies to all of our ongoing corporate and project related activities.

Natives

While industry has its part to play in facilitating the involvement of Natives in its various activities, only Natives themselves can decide whether or not they want to be involved. The old saying about leading a horse to water, applies here. If Natives choose to take an active role in industry, they must first define their own goals in realistic terms, and then be prepared to work hard and make sacrifices to achieve these goals. Again, in this case commitment is the key to success.

Resource and industrial development is increasingly taking place on or near Native communities, and this will generate more and more opportunities for Native participation. In order to take advantage of such opportunities, Natives will require training. In particular, to qualify for career positions, as opposed to short-term, boom-bust construction jobs, they will need postsecondary education.

In the past, Natives have been attracted to careers which have allowed them to work directly with their own people. This has been evident in the disproportionate numbers of Native students enrolled in education, social work, and law programs. I believe that this trend may soon reverse itself as more Natives come to realize that there are also many challenging and rewarding careers in engineering, business administration, various sciences and technologies, and other industry related fields.

As well as equipping themselves with appropriate skills through training, many Native people will have to make the lifestyle adjustments I referred to earlier. They will experience a considerable amount of stress until they manage to reconcile their traditional values, priorities, and beliefs with those of modern industrial society.

An elder from the Bearspaw Band was recently quoted in the *Calgary Herald* as saying:

We as Indian people have lived on the land and regarded the land as valuable to us. White people regard money as their value — and the time is coming when Indian people have to participate in making money, big money.

I am absolutely certain that the elder was not advocating Native cultural assimilation. I think he would agree, however, that there is a very important distinction to be made between cultural assimilation and economic intergration. Just because a Native person has a job in industry, lives in a well-built house, and drives a new car does not mean that he has abandoned his Native language, culture, religion or values. I can assure you that our objective in industry is not to encourage Native assimilation, but to train and develop skilled Native employees and profitable Native businesses.

Government

I like to think of government's role as that of a match-maker, bringing Natives and industry together. There are a number of ways that government should be using its well established communications network to provide more information to Natives on career opportunities in industry.

Governments might also make it easier for Natives to obtain the academic qualifications required for such careers. As I mentioned, Natives have been predisposed to enroll in postsecondary programs in education, social welfare, and law. Government has reinforced this trend by establishing several special programs in these areas, like the SUNTEP teacher preparation program offered in Sas-

katchewan. I am not aware, however, of any special initiatives to encourage Natives to take engineering, science, technology, or commerce programs. I would suggest that government consider redirecting some of its resources to provide these kinds of opportunities to interested Natives.

I referred earlier to the need to take innovative approaches to overcome some of the unique obstacles which can discourage Natives from becoming actively involved in industry. Another thing I would like to see in government is a more receptive attitude towards novel approaches which may be proposed by Natives and industry. In my experience, the usual government response to something a little different is a flat "NO." We would appreciate the occasional "maybe" or "we'll consider it." I recognize that government officials must work under strict guidelines of accountability, but I cannot imagine that these guidelines are so rigid as to automatically rule out every new idea.

Being a matchmaker is ordinarily a thankless task, since once the two principals have been introduced to each other, it soon becomes apparent that "three is a crowd." After government has succeeded in bringing Natives and industry together, it should discreetly withdraw. I firmly believe that government should not interfere with the normal working of industry, or tell us how our business should be run. For example, I consider government imposed Native employment quotas to be a counter productive, bureaucratic nightmare. This heavy handed approach generates much more resistance than cooperation or commitment. I am convinced that Nova has been able to accomplish more on its own initiative than any program of quotas ever could.

The Grouard Job Readiness Training-Life Skills Program

Nova has been involved in several cooperative efforts with Natives and government. Two of these joint efforts, in particular illustrate some of the things I have been saying.

Between 1978 and 1982, Foothills Pipe Lines (Yukon) Ltd., one of Nova's affiliates, cosponsored six job readiness training life skills programs. The programs were also cosponsored by the Alberta Department of Advanced Education and Manpower and Canada Employment and Immigration Commission (CEIC).

The fourteen to sixteen week Program was designed to provide Natives with the knowledge and practical skills to qualify for job opportunities in the pipeline construction industry. The life skills component focused on developing the students' self-image, interpersonal relationships, and work attitudes. The job readiness portion of the Program provided students with instruction and practical experience in areas such as vehicle operation and maintenance, chain saw operation, map and compass reading, surveying, job safety and first aid. This Program brought together the resources of Natives, industry, and government in an attempt to meet each group's needs. The students participating in the Program were Natives who had decided to work in industry, and who had made a commitment to equip themselves with the necessary skills.

The Alberta Government assumed responsibility for development of the program curriculum, and provided classroom facilities, instructors and other teaching materials. CEIC sponsored the students through training allowances or unemployment insurance benefits, and paid for program costs in accordance with the terms of an agreement

between the federal and provincial governments.

Foothills supplied a rented van for transportation of the students, rented survey equipment, hard hats, chain saws, and safety instructors. Our socio-economic counsellors monitored the students' progress, and provided advice to them on a wide range of personal, training, and employment matters. Foothills also endeavoured to have the program graduates employed in the construction of the Alaska Highway Gas Pipeline Project in Alberta. A measure of the success of the Program is that, of the 96 students who graduated, 81 were employed on the Foothills Project, or on other resource development or construction projects. As well, a number of them now have permanent jobs in the oil and gas and other industries.

The Thunderchild Technical Institute

Natives, industry, and government also pooled their resources to establish the Thunderchild Technical Institute, the first of its kind in Canada.

The Thunderchild Indian Band is located in west central Saskatchewan approximately 110 km east of Lloydminster and 110 km north of North Battleford. As you may be aware, there are several major resource development projects planned for, or actually proceeding, in this area; in particular, those related to the production of heavy oil. The band leaders recognized the potential for significant employment and economic opportunities associated with these developments. They also knew that band members would need relevant career training in order to take advantage of these opportunities. However, attendance at off-reserve educational institutions had proved less than successful in the past. Their solution to this problem, which initially startled a few government and industry representatives, was to set up their own Technical Training Institute right on the Thunderchild reserve.

The band first approached Nova to solicit our support for the proposed Institute in the fall of 1982. The Company agreed to act as corporate sponsor for the project, and to assist the band in securing the necessary funding from government. In addition, Husky Oil, which is 68 percent owned by Nova, and several other resource developers indicated their support for the concept and provided information on employment projections to assist in identifying appropriate courses to be offered by the Institute. The band leaders felt that this support was especially critical, since graduates of the Institute would be seeking jobs with these local companies.

Formal proposals for funding were submitted to the Federal Government in 1983, and CEIC approved a \$1.2 million grant for construction of the Institute's training facilities under the newly created skills growth fund. As well, the Department of Indian Affairs committed funds for the construction of an 80 bed residence and for operating expenses. The organizers of the Institute sought and received provincial certification from the Saskatchewan Government to ensure that instructional programs would be fully accredited.

Plans for the Institute are now proceeding. An official sod turning ceremony was held in May 1984 to mark the start of construction of the facilities. The first group of 100 students will commence classes in September of 1985 in five career programs:

- welder-fitter,
- fourth class steam engineer,
- business administration,
- office administration, and

- petroleum technology.

All of these are one year programs, with the exception of petroleum technology which is two years in duration.

I think the Thunderchild Technical Institute is an excellent example of an innovative approach which, through the combined support of Natives, industry, and government, has been carried from concept to implementation.

The Council for Tribal Employment Rights

by

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Executive Director

Council for Tribal Employment Rights
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The Council for Tribal Employment Rights (CTER) is an Indian owned and operated non-profit corporation. It is comprised of, and represents the interests of, over 60 Tribal Employment Rights Offices (TERO's) on a national basis. With funds through an Administration for Native American Grant, and private sector contributions, the Board of Directors and staff provide training and technical assistance to Indian tribes, Native organizations, governmental agencies, and private sector employers in all aspects of Indian preference, tribal employment rights enforcement, and economic development strategies involving the sovereign powers of the tribes. The CTER is governed by an eight member Board of Directors representing five TERO regions in Alaska, the Pacific northwest, the northern plains, the southwest and the east. A six member staff with over thirty years of combined TERO experience administers the daily operations of the CTER. Founded in 1978 and originally made up of the first twelve TERO's it was changed by unanimous approval of the national body in February 1982 into the Council for Tribal Employment Rights.

The TERO Concept of Indian Self-determination

The TERO concept begins with individual economic development through the gainful and meaningful employment of Indian workers. This is accomplished by utilizing the inherent sovereignty of the tribes to develop and enforce a TERO ordinance which preserves and protects the tribes' right to preferential employment, training, and business opportunities within the boundaries of the reservation. The concept recognizes tribal employment rights as sovereign and protected, much like water, mineral, hunting, and fishing rights. The TERO's have successfully applied the same approach to employ Indian workers to secure contracts, subcontracts, and small business opportunities for Indian contractors and entrepreneurs on and near reservations. A focus has been on those federal contracts let through such agencies as the Bureau of Indian Affairs (BIA), Indian Health Services (IHS), and Housing and Urban Development (HUD). Through the work experience and training obtained on these jobs, Indian contractors and entrepreneurs have qualified for new and developing opportunities off the reservation, as well as in the private sector.

TERO remains involved in all aspects of preferential contracting from identification of bona fide Indian firms and businesses, to the referral of potential employers. TERO secures existing opportunities first and develops

new ones as conditions allow. CTER and TERO are dedicated to ensuring the maximum utilization of Indian people in all employment, training, and business opportunities both on and off the reservations.

CTER provides training and developmental assistance onsite, via telephone, mail and in regional TERO seminars, conferences, and workshops. CTER conducts (with TERO) a series of contracting, business, and economic development workshops. These workshops are conducted each quarter in conjunction with regional seminars which are hosted by each different region. New TERO seminars are scheduled the first week of every month in the CTER National Office in Yakima, Washington. There is a small registration fee for all who attend. Travel costs are the responsibility of the attendees.

CTER workshops are designed to cover the following areas: Tribal employment rights and Indian preference enforcement, Indian preference in contracting and small business development, labour law, union practises, Indian self-determination, and legal structures for Indian business development on reservations. Manuals have been developed on "Tribal Sovereignty Approach," "The Law on Indian Preference in Employment and Contracting," "Alaska Native Preference in Employment," and "Contracting Tribal Apprenticeship Training." All the above are prepared by Daniel S. Press, Attorney at Law and CTER General Counsel and are available for purchase through CTER. There is also a "Tribal Apprenticeship Training Program Manual" which is prepared by Lorentino Lalio.

The CTER provides specialized training and technical assistance to federal agencies, private sector employers, Indian tribes and Native organizations. Staff is also available for training and consulting work, on an hourly fee or project fee basis.

The American Indian Science and Engineering Society (AISES)

by

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Participation of the American Indian community in today's technological and resource-dependent society requires the training of Indian people who can act as ambassadors and interpreters between the world of technology and the Indian cultures. This need led to the formation of the American Indian Science and Engineering Society (AISES), which encourages the recruitment and training of American Indian's in science and engineering. The national emphasis on western energy development adds a special urgency to this purpose, as a significant percentage of the energy resources are located on Indian reservations. It is essential to educate American Indian people in the management of Indian land and resources to achieve the goal of Indian self-reliance.

The Society's purposes are to:

- Bring together Indian scientists, engineers, students, educators, and supporters to provide for an exchange of information among these groups.
- Nurture educational programs and strategies that will

increase the number of Indian scientists and engineers, and develop leadership qualities. This includes the high school and elementary school level training.

- Explore and facilitate practical applications of science and technology in every day life to serve the Indian reservations and communities.

Motivated members are needed for many small projects, committee service, and local community work. The Society is patiently engaged in a professional search for continuing funding for operations, staff, and student member support.

The Society holds one or two membership meetings, or national conferences, each year to encourage closer professional and personal relations among American Indian students, scientists, engineers, and supporters. National conferences have been held in Tempe, Arizona (1979), Denver (1980), Phoenix (1981), and Oklahoma City (1982). A three day conference in Phoenix was attended by over 400 members, students, supporters, and corporate representatives. Principal speakers included: Peter MacDonald, Chairman of the Navajo Nation, Dr. Frank Press, President of the National Academy of Sciences, Ken Smith, Interior Department, Dr. John Byrne, Director of National Oceanic and Atmospheric Administration, plus tribal chairmen, tribal council members and others.

Professional Community Interaction

The Society interacts and creates networks with the scientific, engineering, and natural resource communities to further the Society and its professional goals. The Society was voted into full charter membership in the new American Association of Engineering Societies (AAES) in 1981. AAES is the national umbrella society for American engineering societies, representing one million engineers. AISES is represented on the Board of Governors by the Society Chairman and the Executive Director. The committees of AAES present a significant opportunity for AISES members to participate in technological issues of national importance. Society members have also played an active role in activities of other national organizations including the National Academy of Engineering, the American Association for the Advancement of Science (AAAS), the National Science Foundation (NSF), the American Society for Engineering Education (ASEE), the National Action Committee on Minorities in Engineering (NACME), and the American Geological Institute (AGI).

Student Chapters

Student chapters of AISES have been developed to encourage interaction and mutual support among American Indian science and engineering students on college and university campuses. These student chapters provide the vehicle through which national meetings of students take place, scholarship activities can be directed, leadership training can occur, and the voice of the Indian student and teachers can be heard. Interaction, support, and encouragement between students and by teachers. Role models are essential to improve college level retention rates.

A dozen student chapters of AISES are active at the following locations in order of Chapter formation: Clarkson College (New York State), University of Oklahoma, Arizona State University, Northern Arizona University, University of Arizona, M.I.T., California State University (Long Beach), Haskell Indian Junior College, Stanford, University of Colorado, Colorado State University, Ft. Lewis College, Colorado College (state wide chapter), and Oregon State University. To form a chapter, at least eight

student members, a faculty advisor, and application under the AISES Student Code (bylaws) are needed. For further information, contact Tom Dawson, in Massachusetts, at (617)258-4722, or Alex Labadie, Cochairman for Student Chapters, in Los Angeles at (714) 833-4365.

AISES Newsletter

In order to promote communication among the Indian representatives, the tribes, the universities, government, and organizations provide a quarterly newsletter which is published and sent to all members. The newsletter features activities of the Society and the student chapters, Indian energy and natural resources news, relevant Indian education news, editorial and letters to the editor. For more information, write or call AISES Newsletter Editor, Carol Gardipe.

Another AISES activity is to produce and distribute science, engineering and natural resources education films, slide presentations and literature to aid in recruitment of Indian students into these disciplines. AISES members have participated in films such as "WE BELONG TO THE LAND" (forestry), the ME3 filmstrip on minorities in engineering called "THEY DID IT SO CAN YOU," and a recent Council of Energy Resources Tribes (CERT) film on careers in energy. The Society, supported by Exxon Corp., has produced its own filmstrip, a biography of Don Ridley (Shoshone) who moved from the reservation into a professional career in space technology. Information on past and present film efforts may be obtained from C.J. Bryan, P.O. Box 520, Pendleton, Oregon 97801, (503)276-3811.

Society membership is open to both Indian and non-Indian according to category qualifications. **GENERAL MEMBERSHIP:** General membership is limited to persons of onequarter Indian blood, or more. A degree in physical or natural sciences, or an equivalent associate degree with work experience is required. The general membership is the voting membership. **SPECIAL MEMBERSHIP:** An American Indian engineering or science student, or any non-Indian scientist or engineer, or other interested person, and any other Indian or non-Indian not qualified as a general member. **CORPORATE MEMBERSHIP:** Corporate memberships are available. Please contact the Executive Director for further information. Membership fees and contributions are tax deductible. **SOCIETY TAX EXEMPTION** AISES is incorporated in Oklahoma as a non-profit corporation with a tax-exempt status of IRS 509(a)(2).

Election by the Society of not more than one-third of the Board of Directors is held once per year by the General Membership. Members of the Board of Directors serve as officers. The Board is currently made up of twelve members and two student representatives. Nominations to the Board are made by committee, and by the General Membership if endorsed in writing by five members.

A Viewpoint Regarding Employment and Training Opportunities for Native People

by

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The employment and training requirements of Natives are presently addressed by both Canada Employment and Immigration Commission (CEIC) and Indian and Northern Affairs Canada (INAC). It is recognized the CEIC has the prime mandate in this area and INAC operates its services only where CEIC programming is either unavailable or is inappropriate for Native requirements.

The historic lack of national data on the educational and skill development levels of Native people has restricted attempts to adequately advance programs designed to respond to existing needs. However the 1981 census provides, for the first time at a national level, data on the educational attainment levels and the employment success of Native people. This source as well as a number of regional and local studies are now being examined in order to identify and substantiate the resources required to meet identified needs over a time horizon of the next five to ten years.

Without numbing your senses with too many figures, because some of the figures indeed make one numb, the highlights are as follows:

The People

There are 332,178 status Indians representing 1.3 percent of the total population residing in Canada. They are represented in all regions of the country, with a higher proportion in the western provinces and the territories. A total of 235,640, or 71 percent of all registered Indians, reside on-reserve or Crown land with the remaining 29 percent located off-reserve, generally in the large urban centres. While the annual growth of the Indian population has declined dramatically from 3.3 percent in 1976 to its current rate of 2.5 percent, it is still higher than the 1.4 percent national growth rate. Most registered Indians are members of one of the 577 recognized bands.

Employment Dilemma

Approximately 22,000 unemployed Indian employables are receiving social assistance. Approximately 36,000 individuals (21.5 percent) of the total Indian workingage population in the 20 to 49 age group are functionally illiterate (i.e. education level below Grade 8), and 56,000 individuals (27.3 percent) of the total Indian working age population in the fifteen to 64 age group are functionally illiterate. The problem is predicted to worsen through the 1980s, due to substantial growth in the Indian working-age population.

The Opportunities

It is estimated that 66 percent of Indian bands, representing about 45 percent of the total registered Indian population, are situated in either rural or remote locations. This compares to the general population, where 25 percent live in rural areas. This has implications in terms of alleviating regional disparity and in terms of primary resource development. Approximately 43 percent of reserve lands are used for agricultural purposes, and the quality of Indian

reserve lands compares favourably with non-reserve lands in most provinces. Approximately 29 percent of reserve lands are used for timber harvesting and related industries. Although agricultural and forest land distribution is uneven among reserves, there are many opportunities available. Although these generally involve fairly high capital costs.

There are 48,517 houses on Indian reserves, with 21,115 of these units requiring major repairs. While the repair backlog was reduced by 800 houses in 1983-84, there are still 9,000 houses on the list. This could translate into considerable business and job opportunities.

Reliance on social assistance among Indians has increased from about one-third of the population to nearly one-half in the past ten to fifteen years. Social assistance expenditures have increased from about 53.4 million dollars in 1973-74 to about 200 million dollars in 1982-83. There is therefore, a large pool of capital which could be turned towards job creation. There are 196,887 Indians of working age (fifteen to 64 age group) which is 60 percent of the total Indian population, and the employee pool for the future. The maturation of the Indian baby boom of the 1950s and early 1960s has resulted in a rapid increase in the working age population both in absolute numbers and as a proportion of the population.

Several possibilities exist for Indian employment and education associated with new technology. For instance, Indian employees who reside on reserve and either work on reserve or commute to their jobs have proven to constitute a very stable labour force. Furthermore, the proportion of Indian children enrolled in elementary school has almost matched national participation levels. It is at the postsecondary level that there is a problem. The human resources exist, thus it is the method of upgrading and the end use that needs enhancement. The question now arises: What can be done to maximize these and other available opportunities? To this end, INAC recently held a series of workshops involving Natives, government, and the private sector. The output from these workshops and several recent and pending studies, are to form the basis of a review of INAC's mandate in economic and employment development (including training). I am confident this review will result in some new direction and tangible accomplishments.

Some of the more important conclusions arising from the foregoing review are as follows: There is a need for consistency in government policy and programs in order that the private sector can plan accordingly. Governments should provide incentives to encourage the availability of employment opportunities. Governments should be agents that provide required social programming to assist Indian people to adjust to employment situations. Governments can be in the business of job creation, but should not be in the business of direct job management outside the public sector. Government therefore is seen more appropriately as a catalyst for private sector generated growth, rather than an "engine" of growth on its own. Another way of saying it is that government should stimulate productive employment and innovative investment in the private sector, rather than increase its own size.

The single most important prerequisite for the future enhancement of development opportunities for Native people is that Natives have to solve their own problems. Anything less is paternalism. Real independence or self-government is founded on economic self-reliance, and will be enhanced by a Native take over of responsibility

for their own development. What we must understand is that such development entails not only the right to succeed and learn from success, but also the right to fail and learn from failure. In Canada, we seem to understand this very well in terms of developing countries, but we seem somewhat less able to understand this in the context of Native people.

It has been said many times, but I will say it again, the state of affairs related to the lack of success of Indian people in accessing employment, and their high levels of dependency on social assistance, are totally unacceptable. By 1990 there will be approximately 43,000 new Indian entrants into the labour force. This does not include any new status Indians between the ages of fifteen to 64 who may materialize from initiatives to remove sex discrimination from the Indian Act. If Indian employment levels are to reach current rates for all Canadians, thousands (70,000) of new jobs will have to be created. While forecasts for jobs for young Canadians in general are gloomy, we must be aware that the position of Indian people could slip further given their relative under-education and lack of training, particularly in the face of technological change. In this context, we must ensure that Natives have access to the new employment related training programs geared to developing marketable skills for the future.

Natives are demonstrating a growing entrepreneurial capability as evidenced in the west coast fisheries, in agricultural cooperatives, and in specialized harvesting operations. Although opportunities exist for economic development through the promotion of sectoral initiatives including forestry, fisheries, agriculture, and in some specific instances, non-renewable resources, these are clearly inad-

equate. As a matter of fact, we know that as many as eighty percent of new jobs for most Native people will be in the Indian or non-Indian private sector and many of these jobs, especially for the smaller bands, will probably be off-reserve.

At anytime, but particularly in these times when government resources are constrained, it is important to consider the needs of the private sector, upon which we are counting so heavily. I say this with the experience of having worked in the private sector for seventeen years, both in Canada and internationally. Experience which tells me that we have to work cooperatively. No one can successfully force affirmative action. More must be done to identify the common advantages that could accrue to Native people, the private sector, and government, if we work more closely together. For instance, what services can INAC provide which would assist in Native access to employment in the private sector? What can corporations tell us, even informally and without commitment, about future plans, so that Indian bands and INAC can begin to design and schedule appropriate training and support programs? How can Natives be brought more effectively into contact with corporate management? What commitment should they be expected to make in order to realize their ambitions? What we need is dialogue. For my part, as a member of a unit within INAC's Resource, Economic, and Employment Development Branch, I am open to suggestions from the private sector and Native people as to what ongoing arrangements or systems we can set up to ensure tangible benefits to Natives from greater involvement with the private sector.

WORKSHOP DISCUSSION SUMMARY

Non-Renewable Resources

SUB-THEME #9

The discussions that took place in this workshop revealed that in both the United States and Canada there exists a very large untapped potential for non-renewable resource development. It was noted that in both countries, a substantial amount of the unused mineral resources are located on or near Native lands. The ownership, management, and development of Indian mineral resources in Canada and the United States are governed by a considerable body of legislation. In Canada, this authority is exercised by the Minister of Indian Affairs and Northern Development in right of the Crown. In the United States the Secretary of the Interior, under the authority of the Act 1875, and the more recent Minerals Licencing Act of 1982, exercises similar authority. Recent court decisions have reinforced these responsibilities, which include the identification of mineral assets, as well as the timely development of these assets, in a way that is consistent with recognized trust responsibilities.

While the potential for greater Native participation in the exploration and development of non-renewable resources is substantial, the overall level of such participation is comparatively modest when contrasted with other resource areas. In fact, based on the workshop discussion,

there appears to be very few independently owned and operated mineral based Indian enterprises. The total level of Native employment in this area also is very limited.

There are numerous reasons for this low level of Native involvement. In Canada, a major obstacle is the uncertainty associated with the interpretation of the legislation governing Native mineral development. Native non-renewable resource development in Canada is regulated by federal law and specific federal-provincial agreements. In some cases, the ownership and title to minerals lying under Indian reserves is clear. In other cases it is not. The federal-provincial agreements, that were negotiated to provide a method by which development can take place, vary considerably among the provinces. The benefits that Indians receive for such development can vary all the way from zero to 100 percent. As a result, it is not federal policy to promote mineral development on Indian lands in certain provinces, such as Quebec and British Columbia, until the bands can be assured of benefits. It is not surprising, therefore, that uncertainty about ownership, and the share of benefits that bands will receive, serves to inhibit Native non-renewable resource development.

Also related to this is the issue of taxation. Under cer-



Conference Dinner

tain conditions Indian people are exempt from taxation. The authority for this exemption is provided for in the Indian Act, but similar to the situation in the United States, the terms and conditions under which such exemption might apply is extremely complex. Not only is it complex, but it is also shifting because of changing jurisprudence. The laws and regulations that apply to non-renewable resource exploration and production on Indian lands, often have to be interpreted through the legal system in terms of the laws and regulations that apply to such activities on non-Native lands. However, the laws and regulations that apply to non-Native lands are continually changing, and the interpretation of how one set of regulations might be interpreted in terms of the other, are continually changing as well. It is often uncertain as to what legal interpretation might apply to non-Natives working on Indian lands just as it is often uncertain what rules might apply when an Indian works on non-Native lands. While those acting on behalf of Natives, work diligently to clarify how the rules and regulations might apply, lack of a clear non-renewable resource policy within the Department of Indian Affairs and Northern Development (DIAND), and changing regulations, ultimately serve to impede Native participation in non-renewable resource development.

Another factor affecting the level of Native participation in non-renewable resource development is the attitude of the Indian people themselves with respect to such development. Native people frequently have difficulty adjusting to this industry, which has not been one of their traditional activities. The industry, for the most part, is dominated by large heavily capitalized corporations. The exploration and development of minerals, oils and the like is viewed as environmentally disruptive and sometimes poses a threat to the living resources on which Natives have traditionally depended. In many cases, Natives perceive non-renewable resource development as being inconsistent with their cultural values.

Of importance also, is the fact that minerals development is a high-technology based industry, where the skill requirements are substantial. Lack of formal training and on-job experience among Natives is a major reason why the Indian community in both Canada and United States have not been able to take advantage of the many opportunities provided by this very large industry. This lack of formal training and experience in the industry affects not only the capability of a Native person himself, but con-

tributes to a negative attitude about Native people among many potential employees. It limits the ability of the Native communities to secure funding, and often prevents Indians from forming mutually beneficial business agreements with those functioning within the industry.

Despite all these limitations there are many positive changes taking place that offer hope for the future. It was noted in the workshop that the attitude of Native people towards resource development, particularly with respect to non-renewable resource development, is changing. Indian people are no longer willing to be passive spectators, but want to be active participants in resource development initiatives. The evidence for this is substantial. For example, the American Indian Science and Engineering Society of Boulder, Colorado, is primarily a Native organization, which places emphasis on encouraging Indian involvement in non-renewable resource development. The Council for Tribal Employment Rights, of Yakima Washington, is dedicated to providing the education and technical training necessary to ensure greater Indian employment in industry. These examples of primarily Native initiatives, serve to emphasize the growing commitment within the Native community to become involved in resource development as a result of their own efforts.

These positive examples are not limited solely to what the Natives are doing for themselves. There are many examples of joint efforts that involve the government, industry, and the Native people. The formal workshop presentations highlighted two very major cooperative initiatives, which demonstrate the efforts that are being made to broaden Native participation in mineral related developments. The Thunderchild Technical Institute in Saskatchewan is one such program. This Institute provides Native people with the technical and skills training necessary to take advantage of career opportunities in resource development. The main focus of these initial efforts has been to provide the training for greater participation in Saskatchewan's heavy oil production industry.

There is, as well, the deliberate efforts by Nova, an Alberta Corporation, which stresses greater Native involvement in the affairs of the Company. With help and cooperation, this Corporation has established a program which should ensure Native people with a more substantial role in non-renewable resource development in future. Of significance in the Nova experience, is the fact that the Company, through its special efforts on behalf of Natives, has found that Native people are dependable, loyal employees, that are capable of working within the industry. They also found that Native businesses are reliable suppliers of goods and services. It was noted that Nova's Native program would not necessarily have been a success without the strong support of the Company's senior management. The Nova experience throws into question the negative attitude that some companies have towards Native involvement.

Of significance in terms of encouraging greater Native involvement in non-renewable resource development are the special efforts by government. Indian Minerals (West) a division of the Reserves and Trusts Branch of the DIAND is active in promoting Indian involvement in mineral development both on and off reserves. The efforts of this organization have resulted in some very successful oil and gas developments on Indian lands. It has identified a substantial number of other mineral development opportunities for Native people in western Canada. Without being overly optimistic, it can be anticipated, that with

rising interest in mineral development among Natives, that Minerals (West) will play a very important role in establishing successful nonrenewable developments in future.

The presentation and discussion in this workshop may now be summarized.

- (1) In both Canada and the United States the ownership, management, and development of non-renewable resources are governed by a considerable body of complex legislation. In Canada, this authority is exercised by the Minister of Indian Affairs and Northern Development in the right of the Crown. In the U.S.A., the Secretary of the Interior under the authority of the Act of 1875 and the Minerals Leasing Act of 1982 exercises similar responsibilities.
- (2) In both countries there exists a large amount of untapped non-renewable resource development potential.
- (3) A substantial amount of this unused non-renewable resource development potential, in both countries, is located on or near Indian lands. The amount of Native controlled lands available for such development could increase substantially in future as a result of land claims settlements.
- (4) While the potential for the exploration and development of minerals, and hydrocarbon resources is substantial, the overall level of Native participation is often inadequate or non-existent.
- (5) There are numerous reasons for this low level of Native participation. Among the most significant of these are the uncertainties associated with legislation, ownership, benefits allocation, and changing jurisprudence. Other impediments include Native and corporate attitudes, cultural differences, and government intransigence. Natives, for the most part, lack the formal education and technical training to effectively participate in non-renewable resource exploitation.
- (6) Despite the many impediments to greater Native involvement, there are many examples of positive initiatives that offer hope for the future. Native people themselves have established organizations to upgrade their technical skills in order to compete effectively for employment in resource based industries. The Native people, government, and industry have jointly initiated a number of programs to increase Native ownership and employment in all facets of non-renewable resource development.
- (7) Future success for Natives in non-renewable resource development will ultimately depend on the level of cooperation among government, industry, and the Native people. Government will have to be more receptive to the innovative ideas put forth by Natives and industry. Government should function as a facilitator rather than as a direct participant in the operation of business. Natives will have to adopt attitudes that are compatible with high technology development. Industry must be prepared to assist Native people to make this sometimes difficult transition.
- (8) Native people should carefully take into account government legislation, existing regulations, tax incentives, and exposure to liability when deciding on the type of legal entity, and strategies they intend to use to develop their non-renewable resources.
- (9) For Native people to realize the full potential of their non-renewable resources, the rules and regulations that apply on reserve must be made compatible with the rules and regulations off reserve. In this highly complex industry, that often requires such large capital investment, it is not likely that an independent Indian venture can succeed without some formal arrangement with those already in the industry.

Towards Native Self-Reliance: Renewal and Development

WORKSHOPS REPORT TO THE CONFERENCE

CHAIRMAN/MODERATOR:

William F. Sinclair
Director
Economics and Resource Planning
Department of the
Environment
Vancouver, Canada.



Bill Mair Addressing Delegates

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #1

Community Based Planning and Economic Development

by

Mike Lewis

West Coast Information & Research Cooperative
Port Alberni, B.C., Canada

and

Bill Lee

Native Economic Development Program Advisory Board
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Mike Lewis:

The name of our sub-theme was "Community-Based Planning and Economic Development." In this summary we wish to draw out some of the important themes that provided focus for a discussion in our workshop sessions. Of particular importance are the principles that characterize community-based planning and community economic development as an approach, in which the key components need to be there for success. The scope of the process and some of the factors that seem to be prominent are also important.

There are two key principles that characterize this approach: It is community-based by definition and involves participation of the community membership. The process starts with where people are. What are their interests? What are their skills? What are their aspirations? The approach builds on existing resources and does not try and import something from the external community. This does not mean the process is unrelated to external resources, but it has a perspective that focuses on the natural resources, human resources, current organizational capacity of the community development. Financial resources are key to the development process.

The approach is comprehensive in scope. The social, the political, the economic, and the culture all provide perspectives that are realities in the community which have to be taken into account through a process. It defines the planning steps, enterprises, projects, programs, and training necessary to advance the development of the human resource. The organizational capacity of the community, as well as the political and economic capacity also must be defined. The approach is characterized, again by definition, by community control. Effective or sustainable community-based planning has to be vested in the community.

Four critical components of the planning process emerged from our conversations. These were: organizational development, enterprise development, community organizing and technical assistance. These four concurrent tracks, which have to be pursued at the same time, are really part of the basic organization of community

development. All of these tracks are essential to the process. Enterprises have to be identified, brought to development, and then to implementation.

Organizational development involves band government and the organization of interest groups within the community. The process applies to initiatives ranging from crafts associations, through to cattlemen's associations. It basically fosters and recognizes the role of entrepreneurs, and tries to define the respective roles for small business development as well as tribal government.

Enterprise development is that process whereby opportunities are identified through the community-based planning process. They are then looked at in relationship to the criteria that the community develops which are appropriate to that specific community. Communities at different stages of development are of course going to develop different criteria. The whole process proceeds from the criteria development to pre-feasibility, feasibility, business planning, training, and development. Throughout the process the people are involved in opportunity identification and enterprise selection. This often starts with one enterprise that has been identified through the planning process, and then concentrating energies and priorities on developing it to make it work. Through this process the community becomes capable of taking on more complex activities.

A number of the speakers talked about the need to be clear, that there are choices to be made, in defining the preferred future. The community has to be involved in these fundamental choices, otherwise commitment to whatever enterprises come out the other end are unlikely.

Technical assistance is often essential to the community-based planning approach. The key is that it be appropriate, consistent, accessible, not overly expensive, and come from a number of different sources. Technical assistance can come from both government and the private sector. Increasingly, in some of the examples such as in the Meadow Lake district chiefs, Entrepreneurial Development Program, such assistance comes from the Indian community itself. We are finding that some of the most effective technical assistance is being delivered by people who have gone through the process from a community perspective.

All of these components are necessary to the community planning process. They are interrelated, and many of the failures we reviewed seem to result from one or more of these components not being given attention in the planning and development process.

In terms of scope, community economic development is not just commercial. There are commercial enterprises which are profit orientated. There are also economic enterprises which are sustainable, but do not have as their major objective the making of a high internal rate of re-

turn. There is the informal and subsistence part of local economies which are critical for cultural, as well as for economic reasons. Both kinds of economic development initiatives can be a crucial part of building a local economy.

What are some of the factors related to generating success in a community with very low organizational capacity that has not got a lot of experience and is not that well organized? It seems that a significant proportion of the investment of time by the community, as well as any external resources that are brought to bear, need to be directed toward the community organizing side. There is need for participation around a community vision of where they want to be twenty years from now. There is a need to organize people who have common interests and to build some basic organizational infrastructure. Evolving through planning and participation, a development strategy can then be structured, that takes into account all those things we listed as principles characterizing the approach including the establishment of priorities. Communities without development experience cannot do everything at once. In these situations considerable care is required to ensure that there is an appropriate community-based planning process that the community controls. Then a project can be selected within a comprehensive framework and they can start moving with it and building a capacity. Many of the communities that were represented in our workshop, however, do have considerable development experience and have learned a lot from that experience.

One of the critical factors constraining the community planning process is that government people are often inflexibly committed to the bureaucratic system within their program mandates. The problem for the communities is, therefore, that most services are program focused, and they have a very difficult time trying to introduce the community priority or community focus to development within a bureaucratic framework. A pattern emerges which becomes problematic for real human and economic development — the leadership becomes dominated by the time needed to access resources, manipulate programs, and trying to fit them into the community perspective. Often at the end of that kind of process, the community leadership has spent so much energy going in this direction, that the overall community agenda gets displaced.

There is a good example from experience of how this problem was dealt with. The Stellaquo Ojibway Development corporation, who through a special experimental program, got a capital pool from the Federal Government that they could control locally. Prior to this program, they had their planning in place, they had some good solid pro-

jects, but they never had a small capital pool that they could use for bridge financing purposes. Now they have been able to use that small capital pool and obtain a financial leverage of about eight to one. There have been twenty businesses created over the last four to five years.

Bill Lee

Within our discussion groups there seemed to be some disagreements among people with widely differing views. What we can do about this I do not know.

One disagreement was over the issue of the band or the Indian government controlling all development in the sense that the band or the government actually runs the corporation, the business or the venture. At the other end of the spectrum is of course individual entrepreneurship. This refers to the individual person, the individual member of that collective who might have a good idea and want to create some wealth within that community.

Another area in which there seemed to be some dispute, or some difference of opinion among the presenters, was the concept of community resource development. One philosophy was to take a look at your band or your community and say okay, we are only going to deal with what we have, and protect what we have, and use those things for development. Other groups and many of the bands have taken another approach whereby there is a whole Canadian economy. They want to be part of that Canadian economy, and they want to use the resulting benefits to accomplish their goals. So there is, it seems to me, two different approaches and during our discussions we were not able to advocate one over the other. We need to think about it.

We talked about the role of government. Included in the words "the role of government" is Indian government. What is the role of government? Is it intervention? Is it facilitation? Or is the role just going to depend on the particular circumstances in a particular community at a particular time? Our groups had one little suggestion. We thought perhaps at a future conference, and people are talking about having another one, some thought should be given to focusing on community-based planning specifics, rather than philosophical issues. Another thing we noticed, and wondered about in our community economic development session, was the role of the private sector. It was really conspicuous by its absence.

I have to tell you now what I learned from the conference as a Native person. We had a lot of talk about expertise, and some of us shared our expertise. I think from the comments of the other presenters here that this is probably true for their sessions. What I learned is that experts should be on tap, and not on top.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #2

Business and Corporate Development Strategies

by

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Quite early on in our sessions at least two points emerged that influenced, to some degree, the direction that our discussions took. A very striking consideration was the difference in scale of band and tribal land resource holdings. These range from the Navajo situation with its sixteen million acres and 160,000 people, through to smaller less well endowed reserves located mainly in Canada. Another point was the absence from our forum of Native people actively engaged in large-scale businesses such as insurance, pulp and paper, mining and the like. There were, however, Native as well as non-Native officials from several oil and gas companies in attendance. Most of our presenters were Native people.

It seemed clear to some of us participating in the discussion, that since resources are very limited in certain areas, more attention should be paid to young Native people moving into business and industry. There was some discussion about wholly owned Native businesses, but no discussion that I recall, about the very worthwhile goal of Natives assuming a greater role in industry. More effort has to be made to encourage young Native people to move into business and industry. Their role should not be limited to that of labourers but include even going right into the boardroom. However there was no discussion that revolved around the goal of placing Native people in industry or commerce generally, as opposed to wholly Native owned businesses.

In the discussions of what works in venture management — or perhaps more correctly business management — the following points were made. There is no secret about business development or success. Rather there are standard steps or rules to be taken by everyone proposing to get into business. Most business failures arise from poor management in one or more of its many aspects.

One must look at your own skills and interests. What do you want to do and why? What does your area or community need or want? Which of these needs seem to fit your skills and interests? Analyze the prospects in depth and detail, review existing management skills, analyze the market, analyze the competition, do financial projections for one, two, three years at least, write-up the proposal in detail and then seek financing. Initiate, and then continue a vigorous examination of your venture, keeping daily accounts, and continue to follow sound financial management practices. Seek professional outside advice periodically to evaluate your business, particularly before you attempt to expand. It is better to start small, and expand as your capacity and experience increase. Small business is very important, not only to the Native people, but to the nation. It employs people, it develops en-

trepreneurial skills, and it helps to keep the money circulating in the communities by slowing down leakages.

The discussion brought out that the style of management need not be the hard-nosed corporate approach that we all believe exists. The style can be one consistent with Native values and still be a success. This was pointed out by at least one person in our session, who has had very considerable experience in this area.

The second area covered was what works in joint ventures and contracting on major projects. It was noted that there is a general trend away from megaprojects and an increasing emphasis on smaller developments. Thus, the discussion revolved mainly around contracting and small business. There are some Native joint ventures with industry and corporations, and we will certainly be hearing more of these in the future. They are, however, at present still somewhat constrained. We heard of a number of successful joint ventures between Indian companies, and non-Native enterprises. We heard of one in Alberta, that required several years of planning and rather special cooperation between general groups. It took rather special people. But it is working, and is engaged in construction, pipeline laying, land clearing, and other ventures. The goal for the Native entrepreneur must be to take over the management role, and to achieve financial independence. However, there are dangers in joint venturing with large corporations in that the early management capabilities may very well have to be provided by the corporation, as well as the finances.

From the major corporation viewpoint, a number of requirements for success were cited. Senior levels of management must be committed to the policy of working with Native people and promoting Native business. There must be specialists within the company to assist in the development and the administration of the Native economic involvement strategy. There should be periodic evaluation of the program and its success in attaining goals. Contracts need to be broken down to a size enabling Native companies to bid and win. Specialized bidding and business directory documents are valuable assets. Native consultants should be used on a selective basis. Flexibility in program application is essential. No one way of doing things is necessarily right, or the only way. There should be in-house training for corporation or company people at all levels, and this needs to be repeated periodically because there are changeovers, as well as shifts in corporate structures and the officials that are in charge of any particular elements of the company. There also needs to be training provided and information exchanged at the community level. The approach of industry to Native people should be factual and honest; it should not be just a public relations exercise. Support should be given to small ventures that can be made to work in a defined period of time, so that success can build upon success. There should be continuity in policy within the corporation. Once committed to a program involving Native people and Native entrepreneurs, it should be carried through.

The third session revolved around the discussion of what works in venture financing. The point made here

was that venture financing is not really bank loans and that type of thing, it is risk capital. It was pointed out that there is risk money around, and it will be made available, when a proposal is well developed, the potential lender can see possibilities for high growth and return, believes there is good management, and a good product demand. The venture capital firm will want to have some say in management, and will want to sit on the Board of Directors. This should not, however, be seen as an intrusion. The lender and the borrower should have the same objective, which is for the venture to be a success. The lender wants to get his money back and turn a profit that is consistent with the risk. The borrower wants to become financially independent with a good successful business.

Beyond venture financing per se, all financing for Native businesses continues to present problems. This was mentioned by most presenters and by entrepreneurs who spoke to the sessions. Financing is hard to get, and undercapitalization is a constant problem. The gentleman who spoke to us from one of the banks pointed out that banks nowadays tend to loan on the basis of cash flow, not on balance sheets, as asset values have tended to decline during recent years. In some cases it may be necessary to go to venture financing companies who will take a share of the profits, but that may be better than not being able to get your business off the ground at all. The warning here is that too much debt is what causes most bankruptcies. As a rule of thumb, cash flow should be twice what is required to service the debt. Given all these problems, any proposal to a lender should be written and detailed, with cash flow and revenue projections. As indicated in the first workshop session, when a loan is received, sound management practices are required; lenders should be kept fully informed as to progress. Only in that way can they assist if things start to go sour.

A report was received on the Native Economic Development Fund which is a program financed under the Department of Regional Industrial Expansion. It is controlled and directed by Native people. Time does not permit me to really discuss this initiative in detail. There are, however, four elements to that program that deal specifically with Native economic and financial institutions, community based economic development, special projects and coordination to promote access of Native people to other federal programs.

Finally, there are a few additional points that are worthy of special note in this summary. Whatever type of venture is contemplated, attitude is important. It will require ideas, imagination, enthusiasm and determination. This point was made, not just by presenters, but also by one or two entrepreneurs who were able to report success after overcoming tremendous odds, through special dedication, pride, and determination. To succeed in Native business, it is not enough to be as good as your competitors, or other entrepreneurs. It may seem unfair, but you have to be better. There is a need to develop within Native communities or society in general an image of the opportunity and worth of business entrepreneurship. The present images seem to trend young people towards politics, law, or government service. There is nothing wrong with these, but self-government, which is so important to Native people, must be underpinned by an economic base. An economic base certainly will help to promote the realization of self-government. In general, politics and business do not mix. This has been mentioned several times over, so I will not discuss it beyond saying that a major role for band or tribal government should be to create the environment through tax systems, legal systems, and infrastructure within which entrepreneurial effort can flourish.

It was clear from the presentations and discussions that Native people do have ideas and initiatives, that are creating businesses and resulting in success. They do find challenge and self-realization in the economic development field. We have not really touched here upon the barriers to success, since the thrust is to what works. Many of these barriers have been mentioned by previous speakers and so need not be enlarged upon. They include trust relationships, the shortcomings of the Indian Act, the limitations placed on band authority to lease reserve land, lack of adequate land resources, problems maintaining financing, and a confusing array of government regulations that affect lending institutions and programs. They tend to send you from one end to the other until, if you have the strength, you finally end up with one. In desperation you say this is the last hope. Clearly these barriers must be addressed and must somehow be gotten around. It seems to me that given the fact that we have so much enthusiasm, so much ability, and such a reservoir of both, that this is one of the major tasks before us, to remove these barriers and to realize Indian self-reliance and development.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #3

Fisheries and Aquatic Resources

by

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Native people have strong and abiding links to the fisheries resource, and the rhythm of life in many communities is keyed to that of fish and marine mammals.

It is clear that the ability of fisheries resources to contribute to the renewal and development of Native self-reliance and independence is substantial, and in some parts of Canada such as British Columbia, the potential is enormous. Indians have always played a central role in the British Columbia fishing industry, a role that has waned in recent times, but one that could readily be revitalized. For example, in terms of income, the B.C. commercial fishery puts about \$30 million a year into the Indian economy. A target of doubling this level of income in five years and of tripling it in ten years is not only practical, but modest. To do so would require:

- that policies of government agencies be modified, or where dormant, revived and aimed at stimulating development;
- that Indian people take certain initiatives both as individuals and as members of Indian organizations;
- that government agencies coordinate their various and diverse activities;
- that the private business sector be drawn on for support;
- that all parties focus on promoting self-reliance, which is an attitude that government agencies could best foster by cutting away the bureaucratic strings that have too often been used to weave an endless web of dependence.

The impacts in other parts of the country may not be potentially as dramatic as in B.C., nevertheless, they would be significant — an impression strengthened by the U.S. experiences.

The workshops opened with a series of six presentations by U.S. and Canadian participants. In this summary I only touch briefly on the highlights of those presentations. The conclusions of the workshop group clearly reflect the perceptions and experiences of the participants. The timing of the conference at the peak of the fishing season prevented many Native and non-Native fishermen from attending, and the geographic distribution of the group's membership tended to stress western and northern concerns and issues. However, by recognizing and allowing for this shortcoming in our discussions, the workshop was able to focus on key fisheries issues that apply equally to the U.S. and Canada and to all coastal regions in both countries.

Inland fisheries were not discussed in any detail, but we are satisfied that within the context of the theme of this conference the generic issues that we have addressed apply to any fishery.

Perhaps the most important lesson that we all learned from these presentations is the way in which the key is-

ssues are shared by both countries and that we can both learn from each others experience. Through the papers we learned that in the U.S. the Boldt decision on Native non-Native allocation of salmon presented some serious stock management challenges by virtually forcing managers to manage to the weakest fish stocks. This problem has been recognized and voluntary negotiations are continuing in order to resolve specific issues, and most important, to renew and rehabilitate fish resources to the benefit of both Indians and non-Indians. These initiatives include the challenging of the licensing of hydro dams on the Columbia River — the major reason for fish stock declines.

We further heard the historic build-up to the Boldt decisions, and the technical background to some of the current obstacles to its implementation. These include inadequate representation by the tribes in the management process. Although the Boldt decision has assured them a fair share of the adult fish that enter the Columbia River system and which are destined to return above Bonneville Dam.

From Alaska where a land claim agreement is in place we learned that commercial fishing is one of the few occupations that has a clear potential for successfully integrating a cash economy with subsistence culture activities. On balance, traditions, regulations, organization, and local initiative appear to be working in support of Native participation in Alaska's commercial fisheries. However, some Native groups have sold their limited entry permits and the loss of these permits is a cause for concern in terms of Native self-sufficiency.

From the Canadian north we learned of the special efforts being made to ensure a dominant role for Natives in the commercial use of Arctic fish and marine mammals. Following the success of Native art as an economic asset, government and Native groups see fisheries as a key area for local economic development initiatives. A successful Arctic char fishery at Cambridge Bay employs 40 people each year in a seasonal operation, and the recent adaptation of a traditional wier fishery has meant that live Arctic char can be held as necessary to overcome the vagaries of weather interrupting air transport, thus permitting the delivery of high quality fish to the processing plant. This is a good demonstration that traditional old fashioned low-technology can work. Small is possible.

From the Canadian pacific coast we learned how a remote community with a higher than 90 percent unemployment rate is taking the first steps back towards self-sufficiency through a Community Economic Development Program. At present, programs are providing ten salmonid enhancement jobs. There is also the capacity to provide more employment and direct cash benefits through a roe on kelp licence, mariculture, and the use of small salmon and herring stocks that cannot be managed except in the context of a local fishery. Again, small is beautiful and very possible. From the Pacific coast we also learned of the considerable potential for fish farming and other forms of aquaculture, and the steps that could be taken to apply and adapt the success stories from other parts of the world. Pen reared salmon production in Norway, mostly at remote communities, increased from 531

tons in 1971 to 22,000 tons in 1983. By the early 1990s pen raised salmon production will be equalling our own B.C. salmon catch of about 70,000 tons with all the benefits of guaranteed delivery of a quality product. The B.C. coast offers suitable and extensive environments for the culture of salmon and other species. Indeed, the opportunities are equal or superior to those successfully being exploited elsewhere in the temperate regions of the Northern Hemisphere.

The discussion papers and immediate questions on them gave a "real issue" focus to the subsequent workshop discussions. Aquaculture tended to dominate the discussions, but at every point we consciously applied the focus on aquaculture to the much broader issue of fisheries as a tool in leading to self-sufficiency, renewal and development — and found that it worked.

The discussions centered on four key issues:

- (1) Land Claims.
- (2) Financing.
- (3) Aquaculture.
- (4) The role of fisheries as an economic development tool.

(1) Land Claims

There was unanimous agreement that an accelerated approach to land claims settlement, in areas where this has not been accomplished, is an absolutely essential step. This does not mean that progress toward self-sufficiency cannot be made outside the claims framework, but rather that the other steps must all take place within the context of land and resource assets becoming available to, and under the control of, Native people.

Financing of ventures requires collateral, and the land, natural resources, licences, and tenures that can go with this to create assets that are good collateral. Further, the early selection of lands and foreshore areas related to aquaculture and other fisheries ventures must be made soon if they are not to be preempted. Currently in B.C. there is almost a gold rush fever surrounding the private sectors rush to secure aquaculture sites.

Finally, failure to reach land settlement agreements quickly could accentuate the importance of the land claim negotiation process, if the development of an aquaculture industry were tied in to the settlement of claims. It is a possible lever that should be explored further.

(2) Financing

Securing adequate financing has always been at the heart of developing Native self-sufficiency. The fundamental problem always has been, and continues to be, the lack of a cash flow in the communities. The important role of land claims as being a key means of creating assets that can be used as collateral is obvious. There are other important facets of the financing issue that bear consideration. And, although it would be helpful, land ownership need not necessarily be linked to the provision of other assets in the form of special licences, leaseholds, and fish allocations.

The major weakness in present sources of funding is the absence of risk capital, compounded by the inflexibility of current government funding systems. Traditional government funding virtually demands a "sure thing" with the requirement for extensive and seemingly endless feasibility studies. By the time the "sure thing" has been proven up, any advantage in being first with a good idea is usually lost.

One important improvement in the policy area would be an approach by government to funding that provides an

integrated package of tax incentives, loan guarantees, and insurance against business accidents, such as gear loss or accidental loss of brood stock. All of these considerations are particularly important in the fishing business.

We considered other funding approaches. For example, rather than using Native economic development funds for specific projects, government could establish consolidated regional funds administered by regional Native boards. This would provide the much needed leverage and flexibility for dealing with financial institutions. A twenty million dollar fund for example, buttressed by an equivalent loan assurance program could be used as collateral and leverage to generate conventional lending support for community based business ventures. That, coupled with interest earned could provide the seed money and venture capital essential for the renewal of a Native fishing industry, an industry designed and tailored by Natives to suit their needs and aspirations. The availability of such funding has already proven its worth in ventures in northern Quebec and Alaska.

A further source of funds could be through Native private sector joint ventures, provided that Native groups have assets in the form of land, water lot leases, special licences or fish allocations that would be necessary for potential joint venture parties to enter such activities as aquaculture. Joint ventures in the aquaculture field could bring outside capital along with proven technology, marketing, and research and development capability.

In order to capitalize on these strictly business issues, bands will need to create economic development or business councils separate from the actual band governing bodies. These could take various forms: cooperatives, limited companies, societies, etc. These should be made up of people with a business understanding and the ability to "smell money" to search out sources of funding in the private and government sectors. Such local bodies could logically lead to the creation of regional economic development corporations able to initiate business ventures. The appropriate band or tribal councils would be represented on such regional economic development councils and corporations, but would manage their own day-to-day business activity.

A logical outgrowth of such an approach, would be the emergence of a "network" in which the Native business community would begin to link into the non-Native business community. This whole approach is a feature of tribes and tribal councils in the U.S., and a start has already been made in Canada.

(3) Aquaculture

Aquaculture or fish farming is an emerging initiative that offers considerable scope for Native communities. It is a growth industry, but there is a dearth of information about this exciting new opportunity. There is a need for government to prepare and disseminate a comprehensive statement on aquaculture which could serve as the basis for "state of the art" workshops in Native communities. The object of these workshops would be to carry information to the people so that they have the information they need to make their own decisions. A "state of the art" message is needed, not promotion. The communities will decide for themselves. In B.C., for example, we could see the B.C. Aboriginal People Fisheries Council sponsoring these workshops. This could be followed with the development by the Council of a comprehensive policy and program statement to create a framework for dialogue

with governments and with the communities.

There is a need for governments to speed up research and development, preferably through vehicles such as discovery parks, that could coordinate government research and private ventures.

Through Native organizations such as the Aboriginal Council, government should sponsor a series of demonstration aquaculture projects to test ideas in real life situations under a wide range of conditions. These demonstration projects could be used to transfer laboratory research results to working models, which would also be used to train people in all aspects of aquaculture. This would include design and development, technical, administrative, management, and marketing components. This should be accompanied by a well thought out extension service. These projects could be linked into student and vocational programs undertaken by local schools. Finally, there is need to secure aquaculture sites through leases and permits to ensure the opportunity for entry by Native communities into aquaculture. In B.C., the need is urgent and if Native communities do not move very quickly, they are liable to get left far behind once again.

(4) The Role of Fisheries as an Economic Development Tool

Within the context of this conference, fisheries provide an ideal economic and community development tool. The existing industry in B.C., and elsewhere, is in trouble largely through the difficulties of trying to apply a typical growth oriented industrial approach to a naturally fluctuating resource. By their location and traditional involvement in the fishing industry, Native communities are well suited to the rebirth of the new type of fishing industry that must emerge. Such an approach will entail taking initiatives in such areas as:

- herring roe on kelp harvest (Arctic and B.C.),
- a move to terminal fisheries (Arctic and B.C.),
- use of some underutilized species,
- shellfish harvesting and culture,
- the selective use of small discrete fish stocks that cannot be utilized under the existing management and user regimes,
- salmonid enhancement in B.C.,
- freshwater and marine fish farming.

In B.C. the existing Salmonid Enhancement Program (SEP), which is part of the Community Economic Development Program, is already demonstrating the benefits of involving Native communities, and the program should be expanded to include all sectors of fisheries development. Government agencies must concentrate their energies to provide communities with effective support — not control — but support.

In B.C., we have tested the concept of allocating to communities a share of fish which they then harvest, process, and market. This approach overcomes the fundamental problem common to most Native communities, the lack of cash flow. It is encouraging to observe the remarkable growth in self-reliance and independence that accompanies these projects. It is also exciting to watch how these communities apply their revenue to fish culture ventures, marrying their traditional skills and techniques to create simple, low cost, and extremely effective fish enhancement facilities. This whole concept should now be embraced by government and applied broadly, even as a forerunner to claims settlements.

Locally controlled fisheries can provide a foundation for economic stability and self-reliance totally in keeping

with remote community traditions and lifestyles. We came to the conclusion that small is not only beautiful but also possible and eminently desirable.

While interconnected recommendations and action points have been included throughout this report, they need repeating in summary form along with a few general points common to all of the main issues:

- (1) If Native communities are to create a viable economic base, then high priority must be given to speeding up the land claims process. Settlements will provide, through the creation of a resource base:
 - (a) essential collateral for financing, particularly venture capital,
 - (b) stability for bands to pursue self-sufficiency and attract joint-venture participation,
 - (c) bands with the option to select key lands before they are preempted.
- (2) There is an urgent need for government to provide sources of funding for Native venture, without encumbrances. In this regard, a good application of government funds might be through the establishment of regional funds that could give Natives leverage in dealing with banks and private funding sources, as well as, provide seed money for risk ventures from the interest generated by the fund. Coupled with a loan assurance program, this move alone could move Native development ahead by quantum leaps. Government can also allocate fish resources for economic development.
- (3) Aquaculture is a fisheries activity that is coming to Canada and the United States in a major way, and it is essential that the Native community be given every opportunity to get in on the ground floor.
- (4) A focus on fisheries as an economic development tool should be a major initiative by all public and private agencies with an interest in improving the well-being of dependent communities and the people who live in them.

Other specific issues related to the above that demand early attention are:

- (A) Better public communication on the whole Land Claims process. Positive initiatives should be taken by the Native community. The settlement of land claims will enrich the whole Canadian community by enriching Native communities. There is a great and positive story to tell and it should be told by Native organizations.
- (B) A break from current industrial approaches to fish harvesting and a move towards terminal fisheries.
- (C) Use of underutilized stocks and species by communities to generate income which could be used in part to finance further development.
- (D) New institutions such as development councils, business corporations and cooperatives within the Native system of government to encourage business growth.
- (E) The promotion and extension of government policies to allocate licences and tenures to stimulate economic fisheries development in remote communities.
- (F) Increased Native participation on boards, area management and local committees leading eventually to effective comanagement.
- (G) A vigorous research support system, linked with a sound extension service.

In conclusion, movement towards renewal and development of self-reliance can often be accelerated, through astute initiatives, "to seize the opportunity." The timing, for example, of this conference creates a rare opportunity

for Natives in Canada. On September 5, Canada will have a new government, regardless of the political stripe, it will be a new government. On September 5, the new Prime Minister will be looking at a blank page. Native people should move heaven and earth to get their ideas to him before he begins to write on that page. If this conference produces a useful concept of renewal and development, identifies appropriate policies and imaginative strategies and programs, then the message should be carried by every Native organization to the Prime Minister's door — be-

fore he has determined the structure of his government, the selection of his Ministers, and the character and priority of his policies. No matter how worthy the ideas generated by this conference, they will mean little to the person in the village unless implemented. Native people have a rare opportunity to convey to the new government ways and means by which good intentions can be converted to practical real life programs. Programs that could indeed promote self-reliance, because they are conceived and implemented by Native people.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #4

Claims Settlements

by

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The settlement of land claims is viewed by Indian people as playing a major role in attaining both self-reliance and self-sufficiency, as well as establishing their rights and determining their relationship with the non-Indians of our society. Our session opened by attempting to look back at the development of both policies and practices in Canada and the United States in terms of Indians and Land Claims. Through this process we set the stage for the discussions which took place over the two days.

The history of Indian and non-Indian relationships and interactions in the United States has been characterized by treaty making and a recognition of tribal government. The prime catalyst for change in these relationships has generally been produced by judicial decisions. These decisions have resulted in forcing negotiations on the sovereignty of tribal government and their jurisdictional parameters, as well as the acquisition of land and resources and funds for their development.

In Canada the history is somewhat different. Our early history saw a lot of activity aimed at entering into treaties with various tribes throughout the Dominion. Unfortunately, three of our provinces and two of our territories were not party to any treaty in this early period. It is only in the last ten years that the Government of Canada, influenced by the Supreme Court through what is called the "Calder decision," in fact brought in a policy which supported the settlement of claims in this country.

We explored contemporary settlements which have taken place in North America from the point of view of looking at how they contributed to resolving some of the problems, and contributed to the economic and cultural development of the Indian people. We looked at the Alaska settlement, at the Bolt decision and the settlement on the salmon fishing rights in the United States, as well as the James Bay and Cree-Naskapi settlements in Quebec. There were certain factors that became obvious.

In terms of the Alaska settlement, they did achieve some objectives which were for the social and economic

betterment of the Indian people. But the major shortcomings of the settlement were primarily in the areas where the terms provide for a major change in the further distribution of those benefits. In 1991, the settlement land, some 40 million acres, will be subject to taxation. Unless the owners have the means to pay for it, the land of course will become subject to the penalties that are imposed by the Alaska Government. The second point was that the land is owned by the corporations, and the shares of those corporations are currently held by the claimant beneficiaries. In 1991, however, these shares can be transferred to non-Indians, and there is the danger that the benefits could pass from Indian control.

In terms of the Bolt decision in Washington, this was actually a decision of an American court which interpreted the treaties to mean that the Indians are entitled to 50 percent of the salmon resource. This had some very dramatic benefits for the Indian people in terms of securing their fish allocation and allowing them to become involved in the management of the resource. And of course, it is bringing a lot of economic benefits to the Indian people. However, it did create some dislocation in terms of the allocation to other traditional resource users. The cost of management did increase, and the industry is still plagued with the same problems as Canada, viz., "too many boats chasing too few fish." There are still a lot of self-interest groups who are opposed to the settlement, and are doing everything possible to get some changes in it including considering further court challenges.

In Canada, the James Bay settlement had some shortfalls, particularly with respect to implementation. There was a long delay before the agreement was implemented and the money started to flow. There was a need to set up corporations, make them operational and to train people to operate the corporation. But on the whole, it would appear that the settlement did accomplish a number of positive things. Mainly, it gave the Indian people a new sense of pride and a degree of self-reliance, a form of Indian government which they had not had previously, and resources to develop their communities.

It is obvious from the recent settlements that the claims settlement process does have the potential to address a number of the needs for self-reliance and self-sufficiency of the Indian community. We looked at the question of aboriginal title, and in both countries we noticed that this issue has been treated differently, but nonetheless, is an evolving doctrine. In the United States the courts deter-

mined in the early 19th Century that aboriginal rights could not be taken away from the Indian people through legislative action, rather they had to be surrendered by the owners. In Canada, the courts have to date ruled that the aboriginal title can be extinguished by legislation and legislative action without aboriginal consent. Only in recent years, through the Calder case in 1973, has there been some rethinking of that doctrine, and even then the Supreme Court of Canada were not unanimous in that point of view. The decision in the Calder case, or the Nishga case as it has become known, was basically that in fact, aboriginal title did exist in British Columbia. However, judges were split on whether it still existed, three said it did and three said it did not, and the other judge found a technical reason to rule it out of order. So the issue is still unresolved, but it did have the consequence of influencing the Canadian Government to bring in a policy which allows for the negotiation of claims settlements.

Having looked at the legal basis for claims and examined some of the settlements that have taken place in recent times, we then moved on to "what are the objectives of claim settlements." Here we noted that there are different objectives for the parties involved. From the Canadian Indian point of view, the importance of land claims settlements is basically to negotiate their way into Confederation and to establish a new relationship with government. In the process, their objective is to retain their Indian identity and obtain the means and resources for cultural preservation as well as economic and social development. They also are seeking compensation for past damages inflicted on their people. It is through the process of the claims negotiating mechanisms that self-determination will be achieved.

From the government point of view, the objectives seem to be somewhat different. In Alaska it was fear for the need to settle land claims concerns about the security of the land in terms of the Alaska pipeline. In Quebec the same fears were held concerning Quebec Hydro. The motives for settlement on the government side seem to be to put to rest the fears associated with adverse reactions or consequences to major land or resource based developments.

In terms of the private sector, which was discussed in the last day of our session, there was a recognition that this third party who had not been heard from really did have an interest in the land claims settlement process. Of course this is primarily one of securing their investment, and not be threatened by future land claims settlements. Therefore, developers also have a major stake in the settlement of claims in both countries.

We spent the last day looking at the future of land claims and the types of settlement that might take place. The basic questions posed were: Is it possible to arrive at a final and just settlement of land claims in 1984? If it is, what should the shape and form of the settlements be? We looked back at what government policy has been in Canada, and a presentation was made by one of the panelists which traced out the history of Canadian relationships with Indians and the approaches to settlement. He talked about going through four stages. The first was called normalization, which meant the integration and assimilation of Indian people. The second was termination, which was the 1969 policy of the White Paper. The third was initiated in 1973 with the land claims settlement policy which was directed toward settling the grievances between the Government of Canada and the Indian people. The last step is the recent attempt for self-government which was put forward by a Standing Committee on Indian Affairs.

Considerable discussion took place on the need to consider new concepts and forms of settlement. One suggestion put forward by the representative of the Nishga Tribal Council was the idea of sharing resources, an idea which has been presented in the past, but has never taken on quite the same meaning as apparently it has now. We talked about the quiet policies of extinguishment, and how to deal with aboriginal title and third party interests. There were views expressed by the Indian people that they themselves had to organize in what was called a common front to present their case to government and to develop their rationale for land claims. There was discussion on the avenues that are open now in Canada and the United States to the settlement of Native issues. One such avenue is the land claims process which is formalized in Canada by an official policy, and an other is the courts which can be used both in Canada and the United States.

In Canada we also have the constitutional process and the Indian government legislation which is being pursued by the Canadian Parliament. In the United States the question of Indian government has been certainly advanced through various negotiations such as in Maine where tribal governments have worked out the jurisdictional issues with the State Government. There is now Indian government with a form of sovereignty in the United States. Then finally, another that was put forward by one of the Indian representatives was the assumption of rights if they are unable to negotiate them with the government authorities.

In summary, out of the session, several points were made. One is that the Indian people are as determined as ever.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #5

Forestry Resources

by

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I came to the conference without knowing too much about the program. I also came at the insistence of the corporate sector so that I might be able to contribute something towards the theme of the conference which was opportunities for Native people. So I am wearing sort of two hats: being a Native Indian with a heritage I feel very strongly about the Native place in society, and as a representative of the British Columbia forest industry, I feel for the need to restore the economic welfare of that industry. So I am very pleased to present the forest industry panels observations with some comments, a few conclusions and a few recommendations.

Although the conference was clearly intended not to be a Native Indian conference per se, I think the Native participants felt somewhat overwhelmed by the ratios.¹ I think that some of the Native participants felt that the conference program approach was not all that beneficial to them, when you compared our numbers with the other people that were involved in the seminar.

There is a major question of where Indian people want to fit into the forest industry. Are they all willing to go into the business of logging, or would they be content to be employees? Forestry is a fairly complicated industry to get into, and the obstacles to Indian involvement in the forest industry are many. There are so many government agencies that you must satisfy before you can even extract one piece of timber.

Regarding the viability of Indian forestry initiatives there are often problems. Some of the problems that we ran into early were of course associated with isolation and the limited size of the Indian reserve land base. Particularly on the coast of British Columbia, the reserves are very, very small and isolated. Any expansion of the forest base that could make an Indian operation viable would have to come from the Provincial Government. This may be possible in some areas, but you will find in most cases the neighbouring lands are encumbered by established tenure. The Native people realize that ownership or access to the forestry resource base has to be there if any long-term viable initiatives leading to self-reliance are to come from it. The question was, therefore, how much does, or could forestry, affect Native people? The answer was that many reserves do rely, or could rely, on the forest resource opportunities that are in place, or could be developed in the future.

It is obvious that Native people need forestry training.

However, it is very important that these people be trained for a purpose. I got a feeling there has been a great deal of training for training sake. It also was identified that often there is a gap between basic training skills offered and the technical or professional training that are needed. There were, however, examples identified from presentations where there were some areas of appropriate technical training and professional training that can be achieved through government programs. There was a very clear consensus that if there is going to be forestry training, it should be done on the reserve. If it is not on an Indian reserve, it should at least be on-the-job training.

Obtaining adequate funding for forestry management and development has been a very big problem for Native people. To obtain funding they must go through a number of mandatory steps, and experience has shown that there are problems associated with each step. Once funds are acquired, there is then the need for financial management. The bands themselves feel that they can make better use of funds on a short-term basis by administering the finances themselves, and there was a general consensus that this was the best approach. Regarding long-term funding, it was brought out that those bands with viable long-term forestry opportunities should have access to long-term funding. They have found that there is always a gap from the time that you see your need and the time funds are available. Government programs tend to come and go, and they may not be in tune with one another. However, no one seemed to be able to come up with an answer to how do you time it with a government that will not change?

To recap, in general Native people feel they know what they need. Certainly there are opportunities in forestry and they know it. They certainly think that training is necessary and there are good people available. Sound financial management is essential. Skills on the ordinary job site are necessary. Perhaps most important, improved access to both short and long-term funding is essential.

The private sector feels that if bands identify forest development as a possible priority, assessment of the forest potential on their lands is one of the first essential steps. This assessment should be followed up with a short-term, as well as a long-term management plan developed by the bands taking into consideration present and future needs as well as their aspirations. There should be informed decisions on how to handle future forest potential by the Native people. Then is the time to discuss these potentials with professional people, if professional advice is needed.

Labour management is particularly important in running a business. You have government labour laws and regulations to deal with. The labour union interface with industry must also be considered. Native operations need not necessarily become unionized, but given the history of the forest industry, dealing with unions is inevitable and this can create some problems. I am not saying that unions are evil, but there are constraints associated with issues such as union seniority and of course wage negotiations. They often tell you how much you are going to pay, rather than the other way around. Unions are a consideration that Native people should consider when developing for-

¹ At the conclusion of this summary presentation, the moderator noted that the representation at the conference was approximately one-third Native, one-third government and one-third private sector, and that a very large portion of the people from the United States were from the Native community.

est industry operations.

The private sector knows that there are varieties of funding sources available for forestry initiatives. Access to these funds by Native people is often difficult. Joint ventures with the private sector has been one excellent vehicle utilized by the Native people. It often provides a way of getting experience, while still having some management control.

Forest companies see many opportunities for Native people in the labour contract sector of the forest industry. There are three basic forms of labour contracting available. First of all there is the simple labour contract, where no equipment purchase is necessary. These include skidding logs, loading and yarding logs, tree planting, spacing, and some booming on the coast. The second area would be the phase contractor. This requires some equipment everything from ownership of a simple power saw for falling and spacing to some complex pieces of equipment like feller bunchers, gravel trucks, logging trucks, skidders, high lead and grapple yarders, log loaders and road build-

ing equipment. The third area is what is referred to as a "stump to dump" contract where all facets of logging are done for the licence holder.

I tried to address this gathering from a Native point of view. The white man has often had a missionary attitude towards Native people, not only in British Columbia or Canada, but all over the world. I am not saying this in a derogatory way. I think it has always been done basically with good intentions, but they have never really addressed, or been capable of having the feel for the culture of the people that they are involved with. I am going to close by saying that it is too bad that there are no elected people here because one of the things that is wrong with trying to plan in Canada is that we have an election process. The system is not conducive to good long-range planning. The Indian people should endeavour not to wait for neatly packaged things from government, because you are not likely going to get it. If you do get it, much of it is going to be wasted before you get your part.

WORKSHOP REPORT TO CONFERENCE SUB-THEME #6

Agriculture and Water Resources

by

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The lack of clarity with respect to property rights on Indian lands seems to limit the ability of Indians to acquire capital for investment. Even private land is held in common, and therefore, cannot be used as collateral to secure loans. The whole issue of acquiring capital for investment is further complicated by the heir system which fragments land ownership. These complications are not easily explained to potential lenders. This results in poor communication between lending institutions and the Indian community. This coupled with the poor communications that often exists between tribes, geographic isolation, and legal restrictions, severely restricts Native access to capital. Moreover, government restrictions designed to protect Indian people from those who might be unscrupulous merely seems to exacerbate this overall problem.

There also is a problem with respect to the political clout that Indian people have in terms of influencing government and the legislature. The Indian population does not figure prominently in electing political leaders to office. Thus, Indian programs are often at a disadvantage when competing for funds with other government programs. Large departments like the Department of Interior have a wide spectrum of social and economic responsibilities. Competition for support for the funds provided to the Department is severe. This competition, which can be viewed as mainly healthy, frequently is detrimental to Indian development.

Support for Indian agricultural, and water resource de-

velopment is provided by a number of sources. In the workshop it was noted that these can range all the way from agencies that provide only information and extension services, to those that provide direct grants. Within these two extremes there are a variety of different possibilities, such as the Department of Regional Industrial Expansion in Canada, which will give both grants and loans, depending on what money is to be used for and the location in which the development is to take place.

If there was anything that took place in our workshop that could be described as unique, it is the general view expressed by the participants that most Indian success in economic development happens by accident rather than by design. It was noted, for example, that most Indian leaders are not individuals who were predestined for leadership. They come from off-reserve, on-reserve, from broken homes, and from what one would consider humble background. These are not necessarily people with special training or background.

There is strong evidence to suggest public expenditure on education and training is a good investment. Society generally receives high returns for educating people and upgrading managerial skills. However, public support for education should not be confined to the classroom. This is especially true of the type of training that is provided for Indians. The education provided for Indians should be both formal and informal; it should include courses provided in standard schoolroom settings as well as on-job experience. Such training should include exposure to both on-reserve and off-reserve experiences. This is particularly important because it is very difficult for a person who has lived all of his life on a reservation to compete for jobs among the general population. The welfare system, was identified as something which holds your people on reserves, and as a result, limits their exposure to off-reservation experience, and hence, their ability to compete for jobs outside the reserve.

Another limiting factor is the placement of trained managers in positions of authority on reserves. Those that have experience and training are not always used. This is because nepotism is a way of life on many reservations. This failure to use skilled people is sometimes overcome through the community college system. Community colleges often help to facilitate better use of trained personnel, particularly, when the instructors are drawn from Indian population, or when the curriculum has been specifically designed to meet the needs of the Indian community.

Vacillation in government policy is a major inhibiting factor to Native self-reliance. Time and again I heard frustration expressed at the changes in attitude, changes in certifications that might be required on the part of Indian Affairs, on the part of a state, on the part of a province, and on the part of tribal government. There tends to be inconsistency in goals. Programs that are popular now are not likely to be popular two years from now. This vacillation in what appears to be the clear objectives of the service agencies (including tribal government) is a very serious and vexing problem for those who must invest capital and who must write contracts. It also detrimentally affects those who must make decisions for development, or are involved in managing projects. As an example, in the United States over a twenty year period there have been the extremes from very individual paternalism expressed on the part of the Bureau of Indian Affairs, to one where there would be no special treatment for Native Americans.

The interpretation of the trustee relationship in both the U.S. and Canada is very relevant to self-reliance policies. In the United States, the Secretary of the Interior has the responsibility to be the advocate of Indian interests. The critical question for him is are we doing right by Indian people? But at the same time, he has other interests. I understand there is a parallel condition in terms of the Department of Indian Affairs and Northern Development in Canada. Northern development has nothing, or only little to do with Indians. In fact, it may be in conflict with the interests of Indian people. We place ourselves, or we place leadership in a very difficult position, one which often leaves us wondering if the Indians are well represented.

One of the most serious problems facing those interested in Indian self-reliance is the extent to which many public administrators are insulated from failure. They

often do not really recognize what failure is from the point of view of the people they are seeking to help. This in turn, results in a lack of sensitivity about Indian views on development. This insensitivity, reflects itself in many ways. It is reflected in the way that bureaucrats respond to development proposals brought forward by Indians. It is reflected in the inertia that exists in many public agencies, whereby those making the decisions wish to continue to do the things they have done in the past. It is reflected in the really very little success we have had in facilitating Indian self-reliance.

It should be emphasized, however, that all is not lost. More and more young Indian people are being exposed to the competitive system both on and off reserves. Many of these people are not only coping with this experience, but are thriving on the challenge. Increasingly it is these people who are being given leadership and management responsibilities by tribes. Thus, Indian leadership is becoming increasingly sophisticated. With this sophistication, we can expect substantially more interest among Indian people in water and agriculture development in future. However, for these future endeavours to be a success we must take into account all three perspectives that were included in our workshop discussions.

There is, for example, the Native perspective where success is not measured by monetary profit, but social benefits and the degree to which the development strengthens a community's traditional way of life. There is the government perspective where success is measured in terms of providing the public with services, that among other things, facilitate development, ensures individual freedom, and maintains property rights. Then we have the business sector which is looking for developments that will generate a profit for owners. Thus, the successful Indian development has to contribute to all three of these somewhat divergent objectives. However, this should not be considered bad, business is interested in human welfare, Indians are interested in profit, and government is interested in any meaningful development that contributes to public welfare. Therefore, there exists the necessary ingredients for a partnership, because everybody has an opportunity to benefit. In this case, a partnership between business and Indians, with support by government, can reduce public subsidy requirements, improve Indian living standards, and contribute substantially to Indian self-reliance.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #7

Arts and Crafts

by

Tom Hill

Woodland Indian Cultural Education Centre
Brantford, Ontario, Canada

During the course of the Arts and Crafts workshop sessions, the history of First Nations Artisans was reviewed as an aggregate of the crafts producers seeking to facilitate the sale of their production and to expedite their access to raw materials. Also presented was the unique program that exists in Ontario whereby the Ministry of Natural Resources collects moose and deer hides from Ontario hunters.

Another presentation focused, in part, on the present place of "Native Art" in the context of today's society, and then turned to a discussion of the role of cultural centres in the Native community and their relationship with other non-Native institutions of a similar nature. This was followed by a presentation which focused on the role played by the Ontario Arts Council in assisting Native artists and crafts people in acquiring skills and knowledge which will assist them in their creative pursuits. The final presentation covered the role of "Native Writers in the Theatre." These presentations and ensuing discussions can be briefly summarized as follows.

Arts and crafts are an integral part of the Canadian Native identity. There were three areas of art in the Native society of former times: the ceremonial arts, the crafted arts, and the fine arts. As a potential cornerstone of self-reliance of many Indian communities, there are some serious problems facing the development of Native Art in a secularized-commercialized society:

- Native initiatives are often viewed by non-Native organizations and institutions as having low credibility, and/or as a competitor for scarce funding.
- The roles of government, non-Native institutions and Native cultural organizations are not clear with regard to developing the potential of Native arts and crafts.
- Band Councils do not often see the arts and crafts as a high priority activity, and view arts and crafts organizations as competition for money.
- The remoteness of many Indian communities pose marketing and distribution problems.

Despite these constraints there is an increasing recognition that arts and crafts can indeed provide a real component of self-reliance for many Native communities, and Native successes in this area are growing throughout North America. A number of Native arts and crafts initia-

tives were reviewed in the demonstration project context with a focus on examples of successful cooperation between the Indian community, government, and private sector institutions. Some of the key ingredients to these success stories often included:

- A community base of support.
- Initial government support and facilitation during the planning and implementation phase.
- Availability of education and training programs, workshops and seminars ranging from the technical side through to sales and business management.
- A thorough and professional approach to quality control and product marketing and distribution.
- A vigorous and coordinated sales and development approach which can include publications, trade fairs, buyers lists, posters, catalogues and video-tapes.
- The development of Native controlled and directed societies and organizations which acts as coordinators and facilitators, and which can deal with economies of scale.
- A commitment to become self-sufficient, and a willingness to take a businesslike approach to payment for services to Native coordinating bodies through rebates, commissions, and the like.

In summary, there was a general consensus that arts and crafts can be a major factor in attaining self-reliance. There were four common themes associated with successful Native arts and crafts initiatives which the government, the private sector, and the Indian community should always keep in mind:

- Arts and crafts development must be Indian controlled and directed and must have a strong community base.
- For product marketing and distribution there should be some form of centrally located Indian institution.
- Many Indian communities have a wealth of cultural resources which are currently underutilized in terms of arts and crafts development for commercial purposes.
- Cultural industries can be big business, and much remains to be tapped in terms of facilitating Native self-reliance.

Before closing, I would like to add just one more comment. In spite of having some very high quality presentations and resource people, the arts and crafts workshop sessions were by and large poorly attended. Those that were present viewed this as being symptomatic of the perception of the value of arts and crafts in general. Hopefully this perception will change as more and more successful arts and crafts programs demonstrate their very significant contributions to Native self-reliance throughout North America.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #8

Tourism and Recreation

by

James R. MacGregor
MacLaren Plansearch Corporation
Vancouver, Canada

The topic of our sub-theme was Tourism and Recreation. In this summary we wish to identify some of the key components of successful Native tourism and recreation initiatives that were identified and discussed during the course of our workshop sessions. The focus was on what has worked and why, and where do we go in the future.

Native people have the wisdom and knowledge to significantly contribute to the predominant North American culture. Non-Natives have a particular fascination with Native culture, and this interest can be tapped through culturally based tourism and recreation initiatives. One key ingredient to the development of successful initiatives has been to relate private sector tourism expertise in tourism products on the reserves.

A major focus of the conference was on case histories and demonstration projects that have been successful. A number of typical Native tourism and recreation initiatives were presented and reviewed in our workshop.

For example, major events such as Pow-Wow '84 in Quebec City prove that Native programs can compete successfully. The Tillicum Native Village is an excellent demonstration model of a destination attraction that has been operating for twenty years. It has proved particularly successful with respect to how it was developed in relation to understanding different markets. The United Indian of All Tribes Foundation has developed a successful tour broking business which evolved through a land claims settlement. The Gila Indian Reserve Tourism Project and the K'san Project are successful Indian attractions and activities that stress both uniqueness and quality. The Eastern Cherokee Nation has proven to be exceptionally successful in generating more than \$35 million per year in revenue on their reserve.

Tourism and recreation can be a major building block for self-reliance in Native communities. Some of the key ingredients to successful Native programs include:

- Relating cultural and recreation initiatives to skill

development.

- A belief in the product, a long-term commitment, faithfulness to the idea, and flexibility in planning. Authenticity backed by research is often critical.
- Recognition that employment for employment's sake might not always be a selling point for program implementation and management.
- The need to be resourceful but cautious.
- The visitor must be treated as a "guest" rather than as a "tourist."
- Working principles of authenticity, and the guarantee of product delivery.
- Separation of tribal politics from sound business management practices.

A professional marketing strategy is an extremely important aspect of Native tourism developments if they are to succeed. There are a number of factors which should be taken into consideration in developing the strategy. This includes market research, brochures, visits to wholesalers such as motor coach operators and recreational vehicle clubs, periodical advertising, and participation in trade and travel shows. Attendance at conferences and meetings can also be effective, as well as initiatives to educate the tourist.

Perhaps the most essential ingredient for a successful Native tourism and recreation initiative is a long-range strategic plan. This plan must take into consideration the communities needs and aspirations. The long-range planning process must respect the land, heritage, cultural and spiritual values as well as resource protection for the future. The process must also allow for growth and change at a reasonable pace. Developing a sound financial package as part of the plan is essential, because underfinancing has been one of the major causes of business failure. Finally, the plan should take into consideration possible integration with other tribal projects or businesses.

In closing, I would like to say that there was a general consensus that the Tourism and Recreation Workshop was most worthwhile, and that there was a need for a more in-depth exploration of successful Native initiatives in North America and expanding the contact network. With this in mind, we will be exploring the idea of a major north, south follow-up session to conference '84 specifically for Native tourism and recreation.

WORKSHOP REPORT TO CONFERENCE

SUB-THEME #9

Non-Renewable Resources

by

Ed Moore
Consultant
Calgary, Canada

The Non-Renewable Resource workshop was comprised of three sections: ownership and management of minerals in Canada and the United States, taxation, and the Corporate viewpoint on needs and resources. The goals of the workshop were basically to identify the opportunities, issues and problems related to the management and development of Native non-renewable resources, and to assess the public and private resource policies and programs, which enhance or constrain Native development and self-reliance.

The term "non-renewable resource" has been used to describe a range of resources including minerals, and ground water. In its very broadest sense, the word "mineral" includes both organic and inorganic substances that can be recovered from the earth for profit, whether solid (gold, metallic minerals, coal and gravel), liquid (oil and mineral water), or gaseous (natural gas and carbon dioxide). The term mineral is usually defined for management purposes by acts and regulations.

Resource and industrial development, much of it based upon non-renewable resources, is increasingly taking place on or near Indian lands. This will continue to generate more and more opportunities for Native participation. Increased involvement could take the form of participation in the ownership of an exploration or production entity, or even some arrangement for employment guarantee. Thus, Indian people could be both the recipients of wages and profits and the recipients of royalties or working interest revenues.

It was noted, that from a taxation perspective, the exact legal structure used is very important. It was further noted that there are significant differences between the U.S. and Canada. The various structures which are available include the corporation, the partnership, the limited partnership, or cooperative. The usefulness of each of these entities to Indian people, their co-explorers and producers, will depend on their tax consequences and on the possible exposure to personal liability.

When dealing with non-renewable resources, and Native involvement in the management and development of these resources, there are many more legal and legislative aspects to consider. In Canada the ownership, management, and administration of those non-renewable resources which are located on reserves varies from province to province depending upon federal law and specific federal-provincial agreements. In the U.S., legislation regulating the development of minerals on tribal lands has evolved since the Act of 1875 to the present Indian Minerals Leasing Act of 1982. Given the variability in government roles and responsibilities within territorial boundaries, it is essential that all parties involved in Indian non-renewable resource development initiatives take considerable care to fully understand all applicable acts, regula-

tions, and procedures. The workshop participants also noted, that while the rules governing the development of Indian non-renewable resources may be different, it is very important to realize that these differences can offer unique opportunities for business development that are attractive to the Native and non-Native alike.

In both the U.S. and Canada a critical aspect regarding the management and administration of Indian mineral resources are the governments' (through the Secretary of the Interior and the ministers of Indian and Northern Affairs respectively) statutory and trust responsibilities. These responsibilities are being continually defined through the judicial process, and include the identification and protection of mineral assets as well as the timely development of minerals to ensure that the Indian people of today, as well as tomorrow receive optimum benefits for their mineral resources. It is absolutely essential for those agencies administering trust responsibilities to recognize the many opportunities offered by mineral developments, and that they pursue these opportunities in a way that is consistent with these very special obligations.

Each of the three key parties represented at the conference have their own special needs and objectives regarding the management and development of non-renewable resources. Considerable discussion took place during the workshop sessions on how to better coordinate efforts to meet mutual objectives. From the corporate perspective, the time has come for industry to acknowledge that they have a major responsibility for involving Natives in the growth and development of the economy. It was obvious too, that Native participation has been inadequate given the amount of minerals on Indian lands, and therefore special efforts to include them must be made. It is also a fact that Natives have at times experienced difficult adjustments when they choose to work in industry. Consequently, industry must develop programs to assist Natives in making this transition. There was a general consensus, however, that innovative Native programs and policies are only so much window-dressing unless they have firm support from industry senior management.

While both industry and government have their parts to play in facilitating Native involvement in the private sector, only the Natives themselves can determine whether or not they want to be involved. As was noted by one of our presenters (R. T. Scrimshaw): "If Natives choose to take an active role in industry, they must first define their own goals in realistic terms, and then be prepared to work hard and make sacrifices to achieve these goals." Again in this case, commitment is the key to success.

With regard to non-renewable resource development initiatives, government, wherever possible, should play a "broker" role in bringing Natives and industry together. Then government should withdraw. Government should also be much more receptive to innovative ideas and initiatives. Rules and regulations should be interpreted from a "how do we get the job done together" perspective, rather than from the all too frequent philosophy of "it does not say we can do it, therefore it must mean that we cannot."

A significant portion of the workshop was directed to

discussions on the need for education and training. It was noted that a disproportionate number of Native students were enrolled in education, social work, and law. Very few seem to be aiming for degrees in fields such as engineering or science and technology.

There was a general consensus that a major effort is required to ensure that Native people acquire the education and training that is essential for managing and developing their own lands and natural resources. Only in this way will self-reliance truly be achieved. To help address this objective, there have been several innovative initiatives in both the U.S. and Canada which can be viewed as successful models or demonstration projects for improving Native skills and competitiveness. These include the Grouard Job Training Life Skills Program which is an excellent example of a cooperative federal, provincial, and Native program that has resulted in a number of permanent jobs in the resource based industries. The Thunderchild Technical Institute development in Saskatchewan will have a major impact on the number of skilled Indian workers in the industry in future. The Council for Tribal Employment Rights is very active in facilitating Native employment in many varied and innovative ways.

Similarly, the American Indian Science and Engineering Society is making great strides in encouraging recruitment and training of U.S. Indians in these fields.

It is obvious, from the discussions in our workshop, that Native people are becoming aware of the potential of non-renewable resources to help them achieve self-reliance. Many reserves are located in high potential areas, particularly for oil and gas. To realize this potential there is a need to foster better cooperation between government, the private sector, and the Native community. There is also a pressing need to develop and implement policies and regulations that provide assurance that both the Indian people and industry will receive adequate benefits from the development of non-renewable resources.

I would like to close by providing you with some information that emphasizes the importance of non-renewable resource development to Native people. During the last five years, oil and gas development on the prairies has generated over \$1.1 billion for band funds for Indian people living in the prairie provinces. What we would like to see is more hard rock mining in future, because it has higher employment creating potential than oil and gas.

Toward Native Self-Reliance: Renewal and Development Conference Synthesis

MODERATOR:

Douglas Gordon
Program Chairman

PRESENTATION BY:

Jack Beaver
Private Sector Perspective

Fred J. Walchli
Government Perspective

Gordon Antoine
Native Perspective



*Left to Right: Fred Walchli, Doug Gordon, Jack Beaver,
Gordon Antoine*

The Private Sector Perspective

by

Jack Beaver
Cobourg, Ontario, Canada

We have been attending a conference that is dealing with a very complex, difficult subject, and it will be the subject of a long and difficult path for Indians, perhaps for the next two generations. But all trips begin with a first step, and I think this conference was a good start in laying the foundation for the principles of all we have to look at if Indians are to become self-reliant.

I think the private sector, as Gordon Antoine indicated in the last session, will have the responsibility and the capability of doing much more to ensure that Indians have a fair share in the economy of Canada. It is of interest to me that most of the presentations in the sub-theme, in which I participated, came from companies whose operations impact on Indians. I suppose I could say out of enlightened selfishness that I felt that they had better do something about increasing the Indian participation rate. These companies were principally the oil or other natural resource based industries that are on the frontier of Canada, where Indians are an appreciable proportion of the total population.

Conspicuous by their absence were corporations and institutions that have no such connection with Indians. For example, an insurance company in downtown Vancouver, or a service industry such as this hotel. I have not seen an Indian face on the staff of this hotel in the four days I have been here. So it seems to me that through the agenda we set, or the approaches we looked for in this conference, we failed to tackle one significant area. That is, we failed to discuss the participation rate that Indians have in the economy of Canada in general. I think this subject should be explored in detail at future conferences. Unlike the United States, in terms of the political arena, we have not had affirmative action legislation at the forefront here in this country. I suspect that this may change over the next five years. If we had such legislation, at future conferences, we would considerably increase representation from Canadian industry. This is one area where the picture would improve progressively.

The information provided by the private sector at this conference can be of use to the Indian world in several ways. They have identified who can provide managerial and technical advice. Oil companies have awarded a significant number of their contracts to Native organizations and will, no doubt, award many more in the future. Corporations can assist in education and training, and indeed many do. They can also provide expertise, management, and money. There can be joint ventures. Corporations can provide employment.

It is of interest that the oil companies, who have a reason to be involved in employing Indians, do not have a big proportion of the staff working directly for the company. They mostly contract. It is quite clear that even in those companies who have a good reason, more needs to be done in insuring that Indians have a proportionate share of the jobs. Not only in terms of numbers within the company but also in terms of a proportionate share of those managerial positions from the bottom to the top. For this to occur, it must be recognized that this is not one-sided. A company cannot solve the whole problem of hiring Indians. It requires Indian people to prepare themselves. De-

pending on how long Indians have been exposed to the corporate world, there is a mind set on both sides that needs to be addressed by better acquaintance and better relationships between both parties.

There are many, many reserves, if not the majority, which have no resource base whatsoever. Such reserves have become only a place to reside. If economic self-sufficiency is to be achieved, then the people on these reserves have to join the Canadian economy as a whole in terms of employment. This is a very big and important area that we need to do something about.

I have noticed in the last two or three days that we seem to refer to the private sector as if, somehow or other, it was outside of us as Indians. Because we do not have a large Native private sector, I guess that this is not surprising. However, I think many of you that have attended this conference are at the beginning stage of creating an Indian private sector. Therefore, the comments I have made about the Canadian private sector and the responsibilities they have for employment, training, and services also directly apply to the Indian private sector. All those establishments or projects that you have, where you are buying services or products outside the Indian world, should be looked at in terms of the possibilities of getting comparable services within the Indian world. One of the things that is important to remember is that the "leakage" of money from the Indian economy is prohibitively high. Something like 98 percent disappears the first week outside the Indian economy. We never get the real benefit of many of the dollars available to the Indian community, so I think this is another area where we need to do something.

In closing, it was mentioned by an American representative that one of the best vehicles for adjusting or correcting the image that many people in our countries have of Indians can be done by successful and well run corporations. At our particular session, we had a very good presentation by a lady who started a Native food restaurant in Winnipeg where buffalo was the main ingredient on the menu. Many people came in and wanted to have a look at the kitchen to see how clean it was. I suspect they thought maybe the buffaloes were being skinned in the back room. Corporations have a very positive role to play in the area of public relationships. I think our own Indian political institutions are deficient in getting our story across to people. I have attended many Indian conferences, and we do not seem to be able to get our message across. We do not do this adequately at the reserve level either. Certainly governments allocate a very low priority to this as well. Therefore, each one of us in the Indian private sector, has a responsibility to fill this gap.

The Government Perspective

by

Fred Walchli
Senior Negotiator
Office of Native Claims, DIAND,
Vancouver, Canada

It has been a long three days, but I think it has been a very useful and a very productive three days because a lot of the input, comments, recommendations, and suggestions that came out of this conference were evident this morning in the summary presentations. It is obvious that

everybody has contributed extensively.

I have been asked to try to synthesize the government's role in Indian development, and I would like to begin by pointing out that there is a unique relationship between governments in both Canada and the United States and the Indian people. This relationship is rooted in our history and it is recognized in the constitutions, legislation, and various policies and practices. This unique relationship is one that I think will continue for some time to come. It may take different shapes and different forms and have different objectives as the years go on, but it is a relationship that will not be easily terminated. Because of this relationship, the role of government in Indian development takes on an additional significance to what might be the role of government to other segments of the population. Both federal governments have encouraged the idea of economic self-sufficiency and, of course, the rights of Indian people to control their own destiny. Their policies over the years have in one form or another been directed at achieving that end. From the discussions over the last week, it was evident to me that government does play a role in almost every area of the Indian economy and it will continue to play a role. It was also evident that there must be some major changes in government policy, and somehow these changes must be made if, in fact, the Indian people are to develop in the various areas of their economy.

The availability of natural resources is critical. If most Indian economies are to flourish, then there has to be access to resources. It does not matter whether we talk about forestry, fishing, agriculture, trapping, or non-renewable resources. One of the mechanisms through which these resources will be acquired, of course, is through land claims settlements. However, many of those settlements are a long way off, and in others that have taken place they often did not provide the resource base needed. Therefore, I think the role of government has to be to ensure that adequate resources are made available for self-reliance. The need to obtain these resources now becomes more critical as non-Native resource development takes place and the shortages become obvious. In the areas like fishing, the situation in both countries is that the resources are often over utilized and any increased Indian share becomes an issue. In fact, the whole question of improved Indian access to water licences, grazing permits, and timber for sawmill and development purposes almost inevitably becomes an issue. Somehow the policies of government have to recognize the need to allocate a certain share of existing and potential resources for Indian development.

Another issue that became clear during this conference is the need for developmental capital. While government is no longer the sole source of such capital, there is still a need for government to facilitate access to the private sector or to provide capital through their own resources. Part of the problem is that there is always a shortage of capital for Indian initiatives. Another big part of the problem is the departmentalization of the sources of funds. There are different policies, different rules, and different regulations under which funds are accessed. This creates a lot of problems in terms of getting the resources when they are needed to get developments underway. The issues associated with obtaining changes in legislation to facilitate development are very important. Thus there is a need to look at existing legislation in terms of the negative points, and for all interested parties in the private sector, government,

and the Indian community to press for change.

One group during the summary session talked about the objectives of the different players in supporting development. Particularly, reference was made to the positions taken by civil servants, or bureaucrats as they have become known. Often we over regulate, over control, and often question the feasibility of obviously good projects. Sometimes the very stringent and critical government criteria can stifle development and have at times contributed to the problem of Indian business failures. I think it is time that we all realized that the objectives of development really are Indian objectives, and that the role of government and the people that work for the government must really be a support position to help ensure and foster the development process and support the projects that come out of that process. Nevertheless, government with its rules and regulations is real and has to be dealt with. Perhaps as the role of government changes and its importance becomes less, the impact of its decisions will become less as well.

Finally, I think that Indian people have come a long way from, say twenty years ago, when they were almost totally dependent upon the good intentions, the resources, and the initiatives of government. We still have not arrived at the stage where government can simply walk away. In some cases there is still a role, an advocacy role, for us to play, and that is in terms dealing with policies at the provincial level, the federal level, and setting the environment and the framework within which the private sector can help Indian development go forward.

The Native Perspective

by

Gordon Antoine
Nicola Valley Indian Administration,
Merritt, B.C., Canada

The reason that I wanted to introduce myself is to somehow or other try to put into context how some of the issues addressed by the conference and to show how this affects the fellow that both lives and works in, and amongst, the Indian community and at the household level.

First of all, I am a Coldwater Band member. I am also the Chief of that Band. I am the Administrator for the five Nicola bands and one of the five Chiefs of the Nicola group. I am on the Board of Directors for the Canada Harbour Place Corporation. I am the President of the Nicola Valley Indian Computer Services Ltd. I am the President of the Nicola Valley Indian Development Corporation. I am on the Board of Directors of the Nicola Valley Indian Services Association. I am the Operating President of Nicola Valley Construction Company.

There are 1,450 registered band members in the Nicola. These people control around 80,000 acres of Indian Reserve lands held among the five Indian bands. They run something like 4,000 head of cattle, either individually or through band-owned corporations. We control an additional 80,000 acres of off-reserve grazing land. We are involved directly in the real estate economy of the local town of Merritt, both as people that rent office space to other people, and as dealers in town buildings. At the same time, we only lease ten acres of that 80,000 acres out to non-Indian interests. We have loggers and small forestry

contractors in our membership. We have ranchers and environmental workers. We have people that are involved in the arts and crafts industry. We have people that are involved in the ownership of small private one machine construction companies and proprietorships. We have band members that are currently involved in starting to take on some of the downtown merchant activity by setting up their own stores. In a nutshell, we have an approximate payroll of something like 200 people between the corporations and the government arm of the five Nicola bands.

Looking at the kinds of discussions that went on during the conference brings to mind a line in an old movie that was spoken by the late Dan George. The movie was "Josie Wales," and he said something to the effect that "we will endeavour to persevere." In thinking about that, I look at the way this Province has been developed. I also look at the large industrial holdings that exist in this Province and try to examine the ways that those holdings have come about. In particular, I look at one critical aspect of our valley, and that is agricultural. We had a number of people in the early history of this Province who were in very key decision-making positions, who organized beef cartels and who had friends take up land in the valley which was consolidated into what is now the Duck Lake Cattle Company. This was done directly at the expense of the Indian people in terms of how reserves were established. When those reserves were being put in place, Indian people in this Province knew the value of land and its potential in agriculture. They were very much a part of the agriculture community in the 1870s, so much so that they grew prize winning cereals and crops. They won medals at the Philadelphia World's Fair sometime during that period of time. Yet we have had legislators, regulators, and judges pointing out very clearly to themselves and to the Federal Government that the Indians had no understanding of development and progress.

In listening to the land claims session, the one message that seemed to come through to me, which may not have come through to anybody else, was that Indian people

should not raise their expectations too high because there are so many rules built around this whole issue. I also had another opportunity to spend a little time at another session late yesterday afternoon. It surprised me that the people involved in the discussions going on at the time, although there were not that many Indian people there, were reallocating the Colorado River. The area referred to was about 800,000 acres in northwestern Utah and deferred water rights had been sold to California. I had a little problem in terms of dealing with such an issue from my Indian community level perspective of trying to look at the development options in the real world in which I live, as opposed to having a look at some of the mega types of resource development on a provincial basis, on a national basis, or even on the North American Continent.

Any kind of development, any kind of notion of renewal, is only limited by one's own imagination. This is true at my level in the communities. For example, if one sets up a tourism facility on a destination basis, what can happen? First of all, in making that decision, some kind of government or locally controlled process has taken place. Some kind of management structure has been decided on to manage the actual facility. Accounting procedures have been established. Allocation of resources has been discussed, and in some cases actually implemented. Some facilities need more or different resources than others. Some of them require minerals. For example, in the U.S., there is a major trade of turquoise in the tourist industry.

It is interesting to look at the British Columbia tourist industry and the infrastructure around it. The little jewellery boxes that are sold in B.C. are made in Japan, not Canada. I sure would have some second thoughts, as an Indian person, if I had part of my tourist facility depending upon imported commodities.

In my mind, this was basically what the conference was about. It seems to me that a part of it was structured in such a way so as to point out that my expectations in some areas should be reduced. Other parts were structured in such a way that my imagination has been given its run.

OVERALL CONFERENCE SUMMARY

Long before the first Europeans set foot on North America, the aboriginal people of the Continent were self-reliant and independent. They had their own system of governments, their own justice mechanisms, their own educational process, and their own values. They were in fact an independent people, who controlled the resources necessary for survival and self-determination. It was not until after the white man's arrival that this independence began to deteriorate.

The first visitors to North America, were attracted by the vast untapped resources of the Continent. They were in fact emissaries of the leaders of expanding nations, who wanted to exploit the riches of the Continent for the good of the nation which they represented. They initially traded with the Native people, which in a certain sense, gave recognition to Natives' ownership of resources. Then in order to maintain a steady supply of commodities, they began to set up permanent outposts. However, during this period of colonization, it was obvious that an expanding nation could not maintain access to the resources of a region without the assertion of overall sovereignty and permanent settlement.

Attracted by the opportunity to acquire free land and new opportunities, the first settlers brought with them their own system of government and justice. Faced with the moral, ethical, and legal question of how to deal with Native people, the British Crown established the Royal Proclamation of 1763. This document confirmed the right of Native people to what was termed territorial integrity. They had the right to exercise within their own territories all the rights which the British Crown exercised within its own territories. That is, they had the right to occupy land as hunting territories, as places where they lived, until they agreed to surrender them.¹ They had the right to practice their own religions, administer their own system of land tenure, and manage their own resources. This concept of aboriginal rights gave recognition to a nation to nation relationship, that at least conceptually, allowed for the establishment of treaties between equals. Thus, the United States entered into what has been referred to as the treaty dealing period from colonial times to 1870.²

These early treaties, for the most part, reconfirmed Indian rights to territorial integrity. They included within them the concept of political self-determination and the right of Indians to tribal government. However, this treaty process was not pursued as vigorously, or as evenhandedly, in every jurisdiction throughout North America. In

some areas, the land and resources were unilaterally taken. In some areas, Native people were relegated to certain confined areas on acreage of much less value than what was taken from them without their approval or consent. In other situations, the treaties were unfair and unequitable. In still other instances, the treaties were violated either through neglect or misconception. These violations practically always worked to the disadvantage of Native people. It was noted during the conference in a quote from a professor from the University of Washington, in Seattle, that from the close of the American Revolution to 1900, the United States had taken possession of more than two billion acres of land to which indigenous tribes and nations laid claim. Half was purchased by treaty at an average price of 75 cents per acre. Another 325 million acres were confiscated unilaterally, and some were taken without agreement or the pretence of unilateral action.³ The ultimate consequence of this wholesale displacement of land and resources, which took place throughout North America, was that the Native people could no longer provide for themselves, and as a result lost their independence.

This wholesale displacement of land and resources, which ultimately robbed Native people of their ability to provide for themselves through the traditional pursuits of hunting and fishing, was never clearly sanctioned in law. In fact, many of the court decisions involving the rights of Natives, favoured their position. However, these decisions were frequently ignored. Therefore, many of the disputes that are the result of actions during earlier times, are contentious issues today that have yet to be resolved.

The treaty process period that the United States pursued so vigorously prior to 1870, results today in a treaty system that virtually blankets the lower 48 states. In large part, it provides the legal framework for modern court decisions. The courts, determine the legitimacy, content and substance of Native claims through the interpretation of treaties. While this legalistic approach has not always been entirely satisfactory,⁴ it does provide Indian people with the option of pursuing their claims through the courts with some assurance as to what will be used as a basis for settlement, or seeking negotiated settlement.

By contrast, in Canada, the treaty process was not pursued as vigorously. Up until the 1960s and 1970s, only about half of Canada was covered by treaty. The Canadian government has never recognized the Natives' right of self-government, or to territorial integrity. Until the establishment of the Land Claims Program, the Government had never given any indication that perhaps aboriginal rights may in fact exist. As a result, practically every time a dispute over lands or resources surface in a non-treaty area, the courts in Canada are faced with the basic question of whether or not aboriginal rights exist. Thus, with

1 Michael Jackson, Land Claims Workshop, p. 76.

2 Peter Taylor, Land Claims Workshop, p. 67.

3 Peter Taylor, Land Claims Workshop, p. 67.

4 Janet Harper, Land Claims Workshop, pp. 74-75. See also Howard Horton, Douglas Ancona, Fisheries and Aquatic Resources Workshop, pp. 53-55 and pp. 52-53.

the Calder case of 1973, where the Nishga claimed the right to the land and resources in and around the Nass Valley in British Columbia, the courts failed to unequivocally resolve the question of aboriginal title, and as a result, raised concern among the provinces and the general public about the extent of what fair and equitable settlement might entail. However, it also has raised the expectations, hopes and resolve of Native people to acquire a fair and equitable settlement.

With the legal system of the two countries rooted in British law, court decisions of one country have substantial impact on decisions made in the courts of the other. Thus, in recent times, both the United States and Canada have implemented major settlement agreements. In the United States a major settlement was completed in Alaska. In Canada, the James Bay Agreement and the Mackenzie River Delta settlement have been completed. However, the overall results have been mixed. Not only have these settlements failed to solve most of the social and economic problems facing Native people, they may have created some. For example in Alaska, the settlement has raised the very distinct possibility that the land currently held by Native owned corporations will be lost in 1991. Without amendment to the Alaska Agreement, Natives born after 1971, are not entitled to stocks in the land holding corporations, and are not likely to benefit from the settlement. The James Bay settlement has resulted in the need for outside expertise to administer the Agreement. Thus, imposing a new form of dependence on the beneficiaries of the settlement. It has altered the social and economic fabric of the communities, and in one case, has resulted in what was referred to as a generation gap. As pointed out by the speakers in the workshop, these somewhat mixed results, do not necessarily imply that land claims settlements are not good, or should not proceed. Settlements do provide the beneficiaries with new opportunities and with renewed hope for the future. However, on the basis of the experiences to date, there is absolutely no certainty that such settlements in themselves will result in greater independence and self-reliance for Native people. This is a point that was not lost on Native delegates to the conference.

Since the loss of land, with the consequential loss in access to resources, is the major reason why the aboriginal people of North America are no longer independent, it follows that resource acquisition, and Native rights are of crucial importance to Natives on both sides of the border. However, except for the delegates from Alaska, with an obviously real and genuine concern about their claims settlement, United States delegates did not demonstrate the same vital interest in constitutional reform, self-government, or in land claim issues as did their Canadian counterparts. Aside from the obvious fact that most tribes in the lower 48 have worked out some arrangement with government through the treaty process, there are two other factors which appear to explain this basic difference. The first has to do with the amount of land and resources currently controlled or owned by bands; the second, with their capacity to acquire land and resources in future. Both have to do with the ability of a band or tribe to generate the revenue necessary to successfully implement and administer some form of self-government.

In order for a band or tribe to be independent and govern its own affairs, it must have a land base, and the resources necessary, to provide for its own people and to raise revenue. When the average size of a reserve in Canada is compared to the average size of a reservation in the United States, it becomes obvious that Indians in the United States are in a far better position to provide for themselves than is true of Natives in Canada (particularly in B.C. where the average reserve is small even by Canadian standards). Moreover, it would appear that Indian people in the United States have a better chance to acquire additional lands, if they can convince the Federal Government as to the merit of their case. In the United States the Federal Government owns or controls a substantial amount of the land. In Canada, with the exception of the two territories, the land and resources are owned by the provinces. For the most part, the provincial governments in Canada, have been unwilling to participate in land claims settlements. This is the major reason why those settlements, that have taken place in Canada to date, have been in northern areas where the Federal Government is able to assert substantial influence. The small size of Canadian reservations, and the uncertainty among Natives about their ability to acquire new land in future, have to be considered major reasons why Natives in Canada consider constitutional reform, land claim settlements, and self-government of such overwhelming importance. Without concessions in all these areas, the Native people of Canada have serious doubts about their ability to establish the necessary mechanisms to manage their own affairs.

This difference in approach to independence and self-reliance is reflected in the two most recent enquiries initiated by the Governments of the two countries. In Canada, the Parliamentary Task Force on Indian Self-Government lays out a framework for Native Self-Government that among other things recommends that Native rights to self-government be entrenched in the Constitution and that Native people be given an expanded land base with full control over their land and resources. It further recommends, that the Department of Indian Affairs and Northern Development (DIAND) be phased out over a five year period. The overall thrust is for independence through constitutional change that would give Natives some form of self-government and greater control and access to land and resources. Although somewhat controversial, it appears to be the view of the Parliamentary Task Force that Natives prefer the eventual elimination of Indian Affairs.

In the United States, the Presidential Commission on Indian Reservation Economies, advocates greater independence through the better use of those resources currently under Indian control.⁵ The Commission recommends the relaxation of the rules and regulations, so that individual entrepreneurial initiative will flourish in a way that will generate an economic base on reservations. It is proposed that Indian people be allowed the maximum use of their natural resources within the framework of the existing trust responsibilities of government. Even though the Commission Cochairman, acknowledged that consideration was given to recommending the elimination of the Bureau of Indian Affairs (BIA), the Commission felt that given the complexities of the problems, the BIA had a role that could not be easily replaced.⁶ They opted instead for the continued support of BIA, but with greater freedom from direct government intervention, including tribal government intervention, within the context of the existing trust relationship.

⁵ The final report of the Presidential Commission had not been completed at the time of these deliberations.

⁶ Ross Swimmer, Opening Plenary Session, p. 20.

Both the Presidential Commission and the Parliamentary Task Force, are advocating greater Native independence, through the better access and control of land and resources. Both appear to consider better Native access to land and resources as absolutely crucial to facilitating Indian initiated, owned and operated economic development, that will serve as the basis for Native self-sufficiency. The Commission and the Task Force both responded to Native concerns about government bureaucracy and legislative obstacles, that inhibit individual initiative and impedes economic development, by recommending less government intervention. The only substantial difference is that Indian people in the United States appear far more skeptical of the role that tribal government should play in on-reservation economic development, than is true of Native people in Canada.⁷

Even though neither Federal Government has given recognition to aboriginal rights, and have often failed to respond to legal interpretations favouring Indian positions, both have responded to the special circumstances of Native people by establishing programs intended to protect their interests. In the United States the BIA, Department of the Interior, exercises trust responsibilities for their Indian citizens. The BIA has an annual operating budget of approximately \$1.6 billion dollars.⁸ Overall, it is estimated that \$3.2 billion is spent annually on Indian programs in the United States. With similar responsibilities to the BIA, the DIAND in Canada, spent roughly \$1.6 billion in 1983.⁹ This does not include the expenditures by five other departments such as Health and Welfare, the Secretary of State and others, that also provide services to Native people. With an on-reservation population of roughly one million people in both Canada and the United States, the two countries spend in the neighbourhood of between \$3.5 to five billion dollars annually on Indian programs.

Despite this very large expenditure on behalf of the Native citizens of the two countries, the aboriginal people of North America continue to live as impoverished, dependent people. For example, it was noted that in Canada, life expectancy of Native people is ten years less than it is for other Canadians. Infant mortality is 60 percent higher than it is for the general population. Unemployment on reserves ranges between 35 and 90 percent. Many Native people do not have running water, sewage disposal, or indoor plumbing. Sidney Mills, in his address to delegates, noted that Assistant Secretary Smith, when referring to President Reagan's Indian policy noted:

That policy statement acknowledges 100 years of failure to solve the problems of Indian people.¹⁰

Therefore, despite good intentions, the Indian policies and programs of the two countries have not resulted in an

appreciable improvement in Native welfare. They have failed to protect the land and resources on which Native people have traditionally depended. As a result, they have only served to make Native people more dependent and less capable of administering their own affairs. It is this dependence on government, this long-term erosion of the rights of Native people to provide for themselves and to determine their own future, that has become such an issue of major concern among the aboriginal people of North America.

As noted above, it became clear during the conference, that the Native delegates did not consider constitutional reform, self-government, and the settlement of land claims as ends in themselves, which would solve all their problems. In fact, as was stated several times during the conference, such pursuits often add to the frustrations and problems faced by aboriginal people.¹¹ Once again this is not to suggest that these issues are not important (they are of crucial importance), but they are viewed as mechanisms that will rectify some of the grievances of the past and enable them to regain the independence and self-sufficiency they previously enjoyed.¹² Therefore, while not ignoring the essential nature of these issues, the overwhelming consensus among delegates was that independence and self-reliance will never be regained unless Native owned and operated business development takes place which generates on-reserve revenues, and provides Native people with a greater opportunity to participate in the economic affairs of their respective nations.

While there was some question of what actually could be considered successful in "Indian country,"¹³ it was generally agreed that business development success meant business survival that generated revenue and hope for an independent future. Thus, consistent with two of the major objectives of the conference, a great deal of time was devoted to: (1) identifying successful Native owned and operated business enterprises, and (2) determining "what has worked."

With respect to the former, it was established that Natives are involved in virtually every resource based commercial activity in North America. From the fish farming operations of the Seminole in Florida, to fish catching and processing operations in B.C. and Alaska (Metlakatla), the Native people of North America are deeply involved in the fishing industry. There are Native logging operations in B.C. (Tanizul Timber), Oregon (Warm Springs Timber), and New Mexico (Mescalero Timber). Natives are involved in farming operations in Arizona (Gila River and Ak-Chin), and Saskatchewan (wild rice), mining in Idaho (Fort Hall), and oil and gas production on the Canadian prairies. Native involvement in the tourist industry includes such things as small destination attractions in northern B.C. (K'san), a multimillion dollar ski resort in New Mexico (Apache), and major tourist facilities in North Carolina (Cherokee). As revealed during the conference, Natives also have major interests in high-tech developments (Cherokee), pencil manufacturing (Blackfoot), and producing greeting cards (Choctaw). Thus, it can be seen that with hard work and dedication, the Native people have become participants in virtually every aspect of the North American economies.

With regard to the latter of the two objectives listed above, it was determined that most Native business enterprises that are surviving and appear to have good future potential use a systematic approach which usually includes the following:

⁷ It was noted that many Indians in the United States feel that the BIA imposed a form of tribal government on them, that is more consistent with Federal Government perceptions of Indian self-government, than it is of the Indian community's perception of self-government.

⁸ Ross Swimmer, Opening Plenary Session, p. 20.

⁹ Warren Allmand, Opening plenary Session, p. 10.

¹⁰ Sidney Mills, Opening Plenary Session, p. 4.

¹¹ See presentations by Janie Leaske, Clovis Demers, and Thomas Berger, Land Claims Workshop, pp. 83-85, pp. 72-73, and pp. 68-71.

¹² See presentations by Rod Robinson, Land Claims Workshop, pp. 78-82. Also presentations by Neil Sterritt and George Watts, Opening Sessions, pp. 13-15, and pp. 6-7.

¹³ Ross Swimmer, Opening Plenary Session, p. 20.

- (1) The band or tribe contemplating development initiatives, conducts an assessment of the talents, resources, and business opportunities available to the community. Such an assessment includes within it an examination of the political leadership, as well as the skills or talents that are available or might be acquired in future. It also includes a marketing survey.
- (2) The information gathered in the assessment is used to establish a community-based development plan, that includes within it realistic goals and objectives, that are consistent with the lifestyles and cultural background of the people.
- (3) The development plan enjoys the support of the Native community that it is meant to serve.
- (4) The principals who are responsible for operating the business(es) are given a free hand to make business decisions that are independent of the band or tribal government.
- (5) If the skills or talents necessary to initiate and operate the business(es) are not available within the community, they are purchased or hired from elsewhere.
- (6) A systematic plan is developed to provide education and training for band or tribal members to: (a) provide employment opportunities, (b) meet future skill requirements, and (c) ensure long-term continuity.
- (7) The business development starts small at a manageable size, that is within the limits of the talents and resources available to the community. The business(es) expand as the capabilities grow, thus building on success.
- (8) Practices sound financial management which includes within it a careful distinction between operating capital, reinvestment capital, and owners profit.
- (9) Those responsible for development, obtain money from a variety of sources, and recognize that government funds come at a price that includes stringent control requirements, which often inhibits independence, and may be considered excessively restrictive over the long-term.
- (10) Produces a unique, easily identified product line that caters to a target market.
- (11) Initially has a working relationship with non-Native enterprises in the industry in which it competes, that is mutually beneficial to both parties.
- (12) Initiates a development strategy that is diversified over a number of different small projects so that failure in one does not jeopardize the overall plan.
- (13) Adopts sound business practices so that all decisions are made with a view to what is best for the long-term success and survival of the business.
- (14) Makes a careful distinction between sound business management and other non-business social-oriented activities.

While the delegates to the convention gave almost unanimous support to the foregoing principles, particular emphasis was placed on the need to distinguish between business imperatives and social needs. It was stressed over and over again that when Native businesses allow social responsibilities to interfere with sound business practices, the results are virtually always negative. Native government should operate separately from business. Native government, with the help of the Federal Government, should provide the infrastructure and create the atmosphere favourable to business development, and should finance social programs out of the various options traditionally available to government. Those operating the

business should make all decisions with a view to the bottom line and generating the necessary cash flow to operate successfully. A business that does not succeed because of poor business practices, regardless of how well intentioned, merely tends to frustrate Native efforts to achieve self-sufficiency and independence over the long-term.

The importance of establishing links with non-Native enterprises was also stressed. It was noted that successful joint ventures often enable a band or tribe to develop management capacity among its people so that Native participants can eventually assume control and operate independently. Non-Native partners can be important in helping to provide financing or other resources that otherwise might be difficult to acquire. However, all such arrangements between Native and non-Natives must be undertaken carefully. Both sides should fully understand the intentions of the other party to the agreement. If the Native partners intend to eventually take control, then this should be clear at the outset. The benefits that the non-Native partner expects, should be clearly laid out and agreed to in advance. Above all, it should be understood that all business partnerships include within them some sacrifice, but overall the arrangements have to be beneficial to everyone involved.

Even though the main emphasis in the presentations was on the positive aspects of what has worked, the discussions inevitably led to in-depth assessments of reasons for past failures. It was observed that initiatives that have failed in one area have often succeeded in others. The obvious reason for this was that some Native communities enjoy advantages that others do not possess. For example, geographic isolation and distance from markets often put some Native businesses at a competitive disadvantage. It was agreed that geographic isolation is a fact of life among some Native communities and there was very little that government, industry, or Native people can do to change this, except ensure that all development proposals which are adopted, are consistent with the realities of the situation in which a Native group must operate. It was further agreed that there was substantial room for improvement, and that many obstacles could be overcome if government, industry, and the Native community would work more closely together. In this regard, it was noted that the role of government should be that of a facilitator, an advocate, that helps to establish close ties between industry and Natives, and works with band or tribal government to create an environment that allows Native people to take greater advantage of those opportunities that are available.

Although delegate criticisms were not confined to government, there was a pervasive belief among the participants that vacillating government policies, restrictive regulations, and bureaucratic attitudes often stifle individual initiative. It was noted that given a choice between supporting a new and imaginative proposal that involved risk, and an initiative that had been supported in the past (even though it may have failed), that government officials always support the status quo. When given the option of supporting a development initiative and doing nothing, the view is that government always chooses to do nothing. It was agreed that government officials did not understand the need to accept risk to earn profit. They tended to perceive every business failure as evidence that Natives cannot successfully compete. The control restrictions that accompany government funding is considered excessively restrictive and confining. The Native people noted that

those developments that did proceed, were frequently imposed by government and do not enjoy the support of the community that they are meant to serve. Overall, there was a tremendous amount of frustration with government, that understandably results from past failures. However, it also results from the way in which government over time, has tended to involve itself in the day-to-day lives of Native people. Native people simply want to become responsible for themselves without having to depend on government to provide for their needs, and determining what is good for them.

There is no doubt that government intransigence, and what was perceived as bureaucratic rigidity, has tended to detract from Native independence through time. However, the validity of these perceived transgressions is often difficult to determine. For example, it is the view of many Indian people from both sides of the border that one of the major inhibiting factors to Native economic development is that reserve land cannot be used for collateral to secure risk capital. Aside from questions about the absolute accuracy of this view, it was pointed out that lending institutions are primarily interested in safeguarding repayment. They are not interested in repossession or in land acquisition. They are willing to make loans to any business where the opportunity for success and repayment is good.¹⁴ Either land leases, or development and improvements on land, can be used as collateral. The essential point is that if the management is good, the financial plan is sound, and the business prospects are reasonable, lending institutions will not decline a loan simply because the land cannot be repossessed. Land repossession is used only as a last resort, because of loan failure, and banks do not like to acknowledge such failures. Moreover, the restrictions on the use of land as collateral protects Native people from the loss of their lands. It protects them from what is regarded by some as an invasion of their sovereignty in their own territory. This is not an unimportant consideration, when it is recognized that a substantial number of Indian cattle operations in the United States are in trouble because they used their trust lands for collateral to get into business.¹⁵

The establishment of Indian owned and operated economic development is important to the cause of independence and self-sufficiency. Important also, is the increased participation of Native people in the economic opportunities available to the general population. It was noted that Natives are often reluctant to establish businesses in concert with non-Natives, even though such arrangements could provide a community with the experience, resources, and skills necessary for success. It was noted as well, that many Native groups cling to traditional patterns that preclude them from working with other Natives from outside their community, even though such alliances could be mutually beneficial. These factors, coupled with the generally low levels of education and training on reservations, seriously detract from the ability of Native people to compete with non-Natives. It makes it difficult for them to acquire the entrepreneurial skills to compete in the corporate hierarchy and to facilitate on-reservation development.

Although government rigidity and Native attitudes often serve as obstacles to independence and self-reliance,

they are not the only impediments. Important also, is the perception held by business and industry about the contribution that Natives can make to the success of their enterprises. Except for those businesses that function in the north, or operate in remote locations, where Natives comprise a substantial portion of the population, there is a reluctance on the part of the non-Native businesses to include Indian people in their operations. Those in private industry often have a stereotype view of Indian people as unreliable and incompetent. These same organizations often resist any efforts by government to establish employment quotas, or to enforce equal rights opportunities. As was pointed out during the conference, this posture by industry, not only represents a serious waste of human resources when viewed within a national context,¹⁶ but seriously harms the cause of Indian self-sufficiency.

While it is no doubt true that much remains to be done if Native circumstances are to improve in future, the criticisms and concerns expressed at the conference do not detract from the fact that much has been accomplished in the last ten to twenty years. It is obvious that government has played a major role in most of what could be considered a success. Government support programs have contributed greatly in terms of helping Native people, and providing new opportunities. In many situations, Native people have benefitted greatly in terms of initiating developments and acquiring employment, because of the efforts of government. Thus, an important question, which was not considered during the conference, is what would be Native circumstances if BIA and DIAND had not been in existence during the last twenty years? While an honest answer to this question could not be other than very speculative, it would appear on the basis of the workshop discussions during the conference, that the answer would have to be that Native people would not enjoy all of the benefits they do at present. In other words, there is every reason to believe that BIA and DIAND, despite all of their perceived shortcomings, have helped to make Native people better off than they would otherwise be had these two agencies not existed.

Once again it is stressed, that this is not an argument that suggests that there is not a need for change, even major changes. It is, nonetheless, a perspective that suggests that more thought should be given to the consequences of eliminating DIAND in the near future. It may be that upon reflection, it will be recognized (as appears to be the case with the Presidential Commission in the United States) that the complex problems associated with Native independence cannot be adequately addressed if government does not play a major role in helping to facilitate self-reliance. Certainly this view would appear to be consistent with many of the observations made at the conference, where it was pointed out that the continual threat to the existence of Indian Affairs, mainly because of the reluctance of that organization to adapt and change, merely serves to undermine the morale of those who work in the DIAND and further detract from government program effectiveness.

Even though it can be argued that the DIAND has made a significant contribution to the welfare of Native people, government is not the only reason, or even the main reason, that the number of opportunities open to aboriginals has increased in recent years. Native people and private industry working independently, and in cooperation, have done much to improve Native circumstances. Indian people have played a direct, positive role in practically every

¹⁴ Bob Posner, Opening Plenary Session, pp. 22-23.

¹⁵ Sidney Mills, Water and Agriculture Workshop, p. 129.

¹⁶ R.T. Scrimshaw, Non-Renewable Resources Workshop, p. 181.

important event that has taken place in Canada, in the last ten years (e.g. patriation of the Constitution). They have created professional organizations, prepared development plans, set up businesses, and participated with industry through contracting services, and employee development. All of this together, has resulted in a track record that offers considerable hope for the future.

Certain companies in certain industries also have made major contributions. In Canada, NOVA, Petro-Canada, and Husky Oil all have established special programs to provide Native people with new opportunities. Overall, it appeared to be the view of those representing industry at the conference, that these programs have been a success. For example, in the case of NOVA, it was indicated that their Company found Native people to be dependable, loyal employees capable of doing what needs to be done, and reliable suppliers of goods and services.¹⁷ There have been successful experiences in the forest industry, where it was found that, if Indian employers are given the opportunity to progress through the organization to higher skilled, better paying jobs, the results are good.¹⁸ Overall, it was found that when Indians are given help in adjusting to the transition from on-reserve living to a new working environment, the Natives are capable, hard working employees that can progress through an organization. This benefits both the employer and the Native community as a whole.

One very distinct advantage that Native communities have in terms of fostering on-reserve development are the special circumstances that exist on Canadian reservations. Under provisions in the Indian Act, Indians (not a corporation) are exempt from taxation for income earned on a reservation.¹⁹ There are no union hiring, seniority, or skills requirement restrictions. Minimum wage laws do not necessarily apply. The absence of these restrictions, which is an implicit part of reservation life, can be used to provide those businesses located on a reserve with many advantages not open to non-reserve enterprises. This is not to suggest that Indian workers on a reservation should not receive fair remuneration for their efforts, or that businesses located on reserve should take advantage of their workers. It does provide Native communities with a greater freedom to determine how the revenues earned on reservations are distributed within a community. It does imply that on-reserve businesses have a far greater opportunity to start successful small-scale, labour intensive operations, that will provide unskilled band members with the experience and training necessary to compete for off-reserve employment.²⁰

As revealed during the workshops, the opportunity for Native people to share more fully in the economic life of North America appears good for the future. These opportunities exist in almost every aspect of resource develop-

ment. Among those having greatest potential are the northern and west coast fisheries. Aquaculture, fish farming, and the harvesting and processing of currently underutilized species, offer special advantages in terms of small cottage industry development in remote locations. There are possibilities for greater Native involvement in forestry, agriculture, mining, and in oil and gas exploration. Tourism and arts and crafts also offer opportunities which are unique to Native traditions and lifestyles. The one exception to this otherwise optimistic scenario relates to the access of water. It was indicated that in the United States, that Indian rights to the use of water have been eroded by recent court decisions.²¹ This is causing considerable controversy between Indian people and the non-Native population over the right and access to the use of water. This may become an issue in Canada, particularly on the prairies, in the not too distant future.

Even though most Native delegates to the conference indicated a preference for greater across-the-board involvement in the mainstream of the national economies, there was uncertainty among some delegates as to the wisdom of this approach. Even though many delegates emphasized the need for flexibility, and the need to recognize that values and attitudes change over time,²² there was uncertainty among some delegates about what economic development might mean in terms of maintaining distinctive Native cultural identities. This surfaced in the community-based planning workshop, where one group advocated the establishment of Indian government operated businesses, with primary focus on reserve economies. The other group advocated individual entrepreneurship and participation in the national economy as a whole.²³ It would appear that there is concern among some, that greater participation in the national economy will lead to a loss of cultural identity and a dissipation of traditional Native values. Although this may or may not be true, what is clear is that when Natives acquire greater control over their own affairs, they themselves will ultimately determine the degree to which their values will be assimilated with the larger society. Reliance on government will not likely serve their cultural integrity any better in future than it has in the past. The choice as to what is the most appropriate course to follow is that of the Native people themselves. It should not be the choice of government, or of non-Native advisors.

Although not anticipated, the views expressed by the wide cross-section of people attending the conference were consensus opinions. Nowhere were these consensus views more clearly demonstrated than among the Native delegates. This belies the views often expressed by non-Natives, that Native people do not really know or agree on what they want. This is not to imply that every individual Native will agree with the views recorded in this report. It does suggest that it is possible to define a course of action in Canada, that could be used to accommodate the Native community. In this regard, the following suggestions flow from the presentations and discussions that took place during the conference.

- (1) In a country as large as Canada where the greatest percentage of the Native people live in rural or remote areas, the government could reduce considerably the amount of alienation and frustration among its Native citizens, and at the same time perpetuate greater independence and control at the community level, by delegating greater financial control and decision making authority to the regions and to district offices.

17 R. T. Scrimshaw, *Non-Renewable Resources Workshop*, p. 181.

18 R. A. Shebbeare, *Forest Resources Workshop*, pp. 117-119.

19 During the conference it was established that some tribes in the United States have the power to tax on reserve, which is not true of bands in Canada. However, there was no discussion of what tax exemptions might apply on United States reserves. See William Toms, *Non-Renewable Resources Workshop*, pp. 171-180.

20 As pointed out in the *Forest Resources Workshop*, union membership restrictions often prevent Natives from upgrading their skills through on-the-job training.

21 C. Phillip Corke, *Agriculture and Water Resources Workshop*, p. 143.

22 Rod Robinson, *Land Claims Workshop*, p. 89.

23 Bill Lee, *Workshop Report to Conference*, pp. 191.

Government officials who are in day-to-day contact with Native constituents, are in a better position to understand the special conditions that prevail within a region or area and respond accordingly.

- (2) Except in the area of minerals administration, the DIAND has not established any administrative guidelines on the development and use of natural resources. If such guidelines were developed, they could be used to establish regional resource development boards, for fisheries, forestry, agriculture, and the like, to identify regional development opportunities and to initiate demonstration projects at the community level. Ideally, these boards would be comprised of representatives from the Native community, industry, as well as from both provincial and federal resource management agencies.
- (3) Similar to the situation in the United States, where the recent Presidential Commission observed that government enforcement and interpretation of rules and regulations are excessively restrictive, many feel that government efforts to protect Native interests in Canada inhibits individual initiative. If government in Canada were to review the rules and regulations as they are applied to Natives with a view to elimination of unnecessary restrictions, and placed greater emphasis on providing Natives with options and choices, the prevalence of this problem could be substantially reduced over the short-term. Over the long-term, changes in government legislation, a shift to local government control, and greater Native control over the money provided to the bands by government could eventually reduce this problem to the point where it disappears.
- (4) The emphasis within the existing land claims policy of Canada is on land and extinguishment. This emphasis does not give adequate recognition to the particular circumstances that prevail in all parts of the country (particularly in B.C.). It raises concerns among Native people about their rights as original people. Thus, consistent with recent announcements by government, it appears as if a new land claims policy is required. Such a policy would gain greater acceptance among the Native community, and greatly reduce concerns among the general public and industry, if it were to:
 - (a) More accurately reflect the regional differences by placing greater emphasis on access to resources, rather than on just land acquisition.
 - (b) Remove the concept of extinguishment.
 - (c) Allow for a system of treaty settlements that are negotiated between equals.
 - (d) Broaden the range of items that could be negotiated into the agreements.
- (5) The responsibility for encouraging on-reserve economic development does not rest solely with government or depend on the benevolence of industry. Native government can do much to encourage such development and to foster independence. Community based development plans, which enjoy the support of community residents, should be developed. Band by-laws should be established, or as appropriate, altered so that they are consistent with the spirit of community development plans, and are compatible with, but not necessarily the same as, similar regulations elsewhere. Emphasis should be placed on establishing the infrastructure necessary to support development.

Where possible, arrangements should be made with the provincial government to ensure that those working on reserves enjoy the same benefits as workers elsewhere (e.g. workman compensation). This does not imply that reserves need become non-Native controlled industrial parks. It would, however, provide those living on reserves with the option to make mutually beneficial arrangements with non-Native enterprises. It would make it easier for reserve residents to acquire the risk capital necessary for on-reserve development. It would help to provide a stable business climate, and consequently, provide the leverage necessary to improve the quality of life on reserves by allowing Natives to choose the type of development that is consistent with their own traditions and lifestyles.

- (6) In order for Native people to obtain some of the very important concessions that they feel are necessary for independence and self-sufficiency, political leaders must have the support of the Canadian public. Yet, most non-Native residents of Canada are misinformed or unaware of the needs, wants, and desires of their fellow Native citizens. Many non-Natives are aware that the Native population is growing, and a very substantial amount of government money is spent on supporting Indian programs. The larger society wants to reduce government expenditures, and have Native people take greater responsibility for their own affairs. Native people want to determine their own future, and the future of their children, without depending on government. These are the same goals, not different goals. The Native community should make every effort to make the public aware of this. They should work with the non-Native community so that the general public becomes more aware of the legal, moral, and ethical substance of what they are seeking.
- (7) In Canada, the Federal Government has the primary responsibility for Native people. Thus, most of the frustrations that are present among Indian people are directed at the Federal Government. Yet, the Federal Government does not always have the jurisdictional authority to respond to those issues that aboriginal people wish to have addressed. Native people are not only citizens of Canada, they are also citizens of the province in which they reside. The provincial governments have a responsibility to respond to the legitimate concerns of their Native citizens, just as they have an obligation to respond to the legitimate concerns of all other citizens. Much could be accomplished if the Native people worked more closely with their provincial government in areas where the provinces have major jurisdictional responsibilities.
- (8) Industry has much to gain from working more closely with the Native population. This is particularly true in northern or isolated regions where Native people reside, and where labour force turnover, transportation costs, and the like can add significantly to total operating expenses. There also are other advantages to industry. These include possible tax benefits, good public relations, and the possibility of establishing mutually beneficial partnerships. Industry has often resisted going into partnership with Native groups, just as Indian groups have often been less than totally enamoured with establishing such relationships with industry. However, recent experience in Canada, has

shown that it can be beneficial to both industry and the Indian community. In the United States this has resulted in the establishment of many long-term business successes. Canadian industry should be more ag-

gressive in establishing links with Native community, not simply as a gesture of goodwill, but as rational investment that could pay dividends in future.

APPENDICES

APPENDIX I

CONFERENCE '84 END PRODUCTS and FOLLOW-UP

In developing the conference program, the Program Development Committee became aware of the possibility that the conference itself would not result in anything new or innovative unless deliberate actions were undertaken. In order to facilitate what has become known as "conference end products," a special session was included in the conference program. In that special session a number of outputs and follow-up strategies were identified. While the overall results to date, have been somewhat mixed, there are a number of initiatives that are taking place that either parallel, or do in fact, result directly from conference '84. Included among these are the following.

Community Handbook

As part of a Band Planning Handbook series, a handbook on community economic development planning will be completed this fiscal year. The results of conference '84 will be incorporated into this handbook. The publications in this series are specifically designed for use at the community level. For further information, contact Alain Cunningham, Regional Planner, British Columbia Region, Indian and Northern Affairs Canada, (604-666-5173).

Seminar '85

Conference '84 is a catalyst for those interested in Native self-reliance. For many participants, particularly those involved in the community planning and business development sessions, a series of questions crystalized which dealt with the development of Indian lands adjacent to urban areas. To address these questions a conference entitled Seminar '85 "Toward Native Self-Reliance: How Do We Cope?" was held in Vancouver, Canada on April 17 through 19, 1985.

Seminar '85 was attended by approximately 145 people from across Canada. This included representatives from the Native community, government and the private sector. The seminar focused on three basic themes: (1) Transition to Native Local Government, (2) Impediments to Investment and Effects on Business, and (3) Land Use Development: Security of Title and Registry. Workshop sessions dealt with a series of specific topics including

corporate perspectives on investment, the impact of Native claims on economic development, and public concerns related to the development of reserves. It is intended that the conference summary notes for seminar '85, and other materials, will be used to produce a series of publications.

Native Self-Reliance Association

During the planning process for conference '84, the need was identified for some form of vehicle, that could take advantage of the dynamics and increased communication generated by the event, to facilitate Native self-reliance. The vehicle proposed for Canada was a Native Self-Reliance Association (NSRA). Background material on the NSRA concept was circulated to every participant in conference '84. The organization's proposed structure, activities and implementation was discussed at the special end products session.

The NSRA was conceived as an independent, non-profit association dedicated to making practical assistance available to Native communities seeking self-reliance. NSRA will also help bring together all those involved with Native communities and institutions who wish to facilitate self-reliance through improved community control of their lands, the management and development of natural resources, and the marketing of goods and services.

For further information on the *Native Self-Reliance Association* which developed out of conference '84, contact:

B. J. Carter
205 — 2405 Beacon Avenue
Sidney, British Columbia V8L 1X5
CANADA
(604) 656-4811

Conference '86

Discussions are underway with Dr. Herb Fullerton, (U.S. Department of the Interior), regarding the organization of a follow-up conference on Native self-reliance to be hosted in the U.S. during 1986. Support from government, the private sector, and the Native communities will be required, if this conference is to take place.

APPENDIX II

CONFERENCE PROGRAM OUTLINE, PROGRAM DEVELOPMENT COMMITTEE and CONFERENCE MANAGEMENT GROUP

CONFERENCE '84

TOWARD NATIVE SELF-RELIANCE: RENEWAL AND DEVELOPMENT

Sponsored by:

FRASER VALLEY COLLEGE

In cooperation with:

DEPARTMENT OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT,
CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION,
SECRETARY OF STATE,
WESTERN INDIAN
AGRICULTURAL CORPORATION

PROGRAM DEVELOPMENT COMMITTEE MEMBERSHIP

Conference Program Chairman

Douglas Gordon
Resource Management Advisor
Department of Indian Affairs
and Northern Development
Vancouver, British Columbia, Canada

Honorary Conference Cochairman

Herb Fullerton
Assistant Director
Office of Policy Analysis
Department of Interior
Washington, D.C., U.S.A.

The Honourable Warren Allmand
Member of Parliament
Montreal Notre-Dame-de-Grace
House of Commons
Ottawa, Ontario, Canada

J.W. (Jack) Beaver, P.Eng.
Cobourg, Ontario, Canada

Fred Boden
Director, Native Community Branch
Ministry of Citizenship and Culture
Toronto, Ontario, Canada

Beth J. Carter
Senior Economic Analyst
Ministry of Industry and
Small Business Development
Victoria, British Columbia, Canada

Peter Clark
Resource Management Policy
Advisor
Department of Indian Affairs
and Northern Development
Vancouver, British Columbia, Canada

Alain Cunningham
Regional Planner
Department of Indian Affairs
and Northern Development
Vancouver, British Columbia, Canada

Bill Ewing
President, C.D. Schultz and Co. Ltd.
Vancouver, British Columbia, Canada

John A. Foster
President, MacLaren Plansearch Corporation
Vancouver, British Columbia, Canada

Mike Lewis
West Coast Information and
Research Cooperative
Port Alberni, British Columbia, Canada

J. R. (Ron) MacLeod
Special Advisor to the Director General
Department of Fisheries and Oceans
Vancouver, British Columbia, Canada

George McRobie
Director, Schumacher Institute
London, England

Edward A. Moore
Consultant
Calgary, Alberta, Canada

Dave Park
Western Management
Consultants Ltd.
Vancouver, British Columbia, Canada

Frank Parnell
North Coast Tribal Council
Prince Rupert, British Columbia, Canada

Marni Robertson
A/NEED Coordinator
Department of Indian Affairs
and Northern Development
Vancouver, British Columbia, Canada

John Schiel
Western Management Consultants Ltd.
Edmonton, Alberta, Canada

Ronald Shortt
Special Advisor
Native Council of Canada
Ottawa, Ontario, Canada

William F. Sinclair
Director, Economics and Resource Planning
Department of the Environment
Vancouver, British Columbia, Canada

George Thomas
Indian Lands Coordinator
ARCO Explorations Limited
Denver, Colorado, U.S.A.

Fred Walchli
Senior Negotiator for Native Claims
Office of Native Claims
Department of Indian Affairs
and Northern Development
Vancouver, British Columbia, Canada

Hugh V. Walker
Director
Strategic Planning and Evaluation
Department of Regional Industrial Expansion
Vancouver, British Columbia, Canada

Ted Wilson
Director
Office of Indian Resource Policy
Ministry of Natural Resources
Toronto, Ontario, Canada

CONFERENCE MANAGEMENT GROUP

Conference Manager
W. W. (Bill) Zarchikoff
Director, Contract Services
Fraser Valley College
Abbotsford, British Columbia, Canada

W. J. (Bill) Stelmaschuk
W. J. Stelmaschuk & Associates Ltd.
Mission, British Columbia, Canada

Chris Dyer
Secretary to the Director
Contract Services
Fraser Valley College
Abbotsford, British Columbia, Canada

Lyn Policha
Contract Services Department
Fraser Valley College
Abbotsford, British Columbia, Canada

Judy Langille
Contract Services Department
Fraser Valley College
Abbotsford, British Columbia, Canada

TOWARD NATIVE SELF-RELIANCE: RENEWAL AND DEVELOPMENT

ORGANIZATION AND GOALS:

First, the conference was designed to address the interests and concerns of three key groups regarding Native self-reliance: the Native community, Government, and the Private Sector.

The conference is therefore not a Native conference *per se*, but a forum for a wide-range of interested and involved parties who have reasons for encouraging and facilitating Native self-sufficiency.

Second, a key conference objective is to assess "what has worked." Thus, there has been a major focus on case histories and demonstration projects that have been successful. The Program Committee was not interested in the traditional litany of "Indian failures."

Third, this will be a "process" or participatory conference. That is to say it is a session built around full participation through workshops. Such an event is much more difficult to organize than the typical "show and tell" exercise — for in fact we have nine mini conferences within the main conference — but the Program Committee felt strongly that the results would justify the approach.

Fourth, the Program Committee is very much interested in real conference end products and follow-up. Wednesday afternoon is officially an open time, but there is an optional session on end products for those really keen individuals. We hope that this session will act as a catalyst and lead to a series of follow-up initiatives. A few examples of what will be discussed:

Conference Proceedings. An Editorial Board has been formed, terms of reference established and Conference Proceedings will be published. Because of the multiple conference sub-themes and the fact that you cannot be everywhere at once, considerable effort has been made to ensure that a working record of the conference is developed (see your flow diagram). Each workshop will have recorders, and each sub-theme will also have synthesizers. Their material will be directly tied to the Proceedings, so try not to worry too much if you cannot attend a session that you consider important.

Conference Network. One main objective of the conference is to establish a better communications network between all parties interested in Native self-reliance. To start the ball rolling, we have developed a simple questionnaire which will be available at Registration and throughout the conference. Please take a few minutes to fill it out.

Community handbook. Steps have been initiated to develop a handbook from the conference that will be of use at the band/community planning level.

Indian Resource Centre. Some homework has been done to assess the need and feasibility of an Indian Resource Centre.

Follow-up Conference. It has been suggested that since Canada is hosting Conference '84, it would be appropriate if the Americans organize a follow-up conference in 1986 as the next major process step. There has been some initial interest.

This event is viewed by the Program Committee as but a step in a long process to better focus and network the wide range of human and other resources that can be utilized to improve the well-being of Native people. The conference

will hopefully bring key players together, and act as a major catalyst in addressing the question of "where do we go from here?"

A good program has been developed with the help of some of the best people in their fields in the world. As this is a participatory conference, it is now up to all of us to help make it a success.

I would like to acknowledge with thanks those organizations that provided displays which are located on the conference floor. These include:

arete Projects Ltd.
Vancouver, British Columbia, Canada
Digital Resource Systems Ltd.
Nanaimo, British Columbia, Canada

Regional Office of the Federal
Department of the Environment
Vancouver, British Columbia, Canada

MacLaren Plansearch Corporation
Vancouver, British Columbia, Canada

Reid Collins & Associates Ltd.
Vancouver, British Columbia, Canada

T.M. Thomson & Associates Ltd.
Victoria, British Columbia, Canada

Western Indian Agricultural Corp. Ltd.
Vancouver, British Columbia, Canada

Douglas Gordon
Conference Program Chairman

PROGRAM AT A GLANCE

Sunday, August 19, 1984

1200 — 1900 Registration
1400 — 1900 Visual Media Presentations
1930 — 2130 Opening Session And Official Welcome
2130 — 2230 Wine And Cheese Reception

Monday, August 20, 1984

0800 — 1400 Registration
0900 — 1100 Plenary Session
Panel 1 "Perspectives of the Canadian Indian Self-Government Report"
Panel 2 "Perspectives of the United States Presidential Commission on Reservation Economies"
1120 — 1215 Question Period And Summary
1215 — 1230 Workshop Introduction And Orientation
1400 — 1700 Sub-theme (Workshop) Sessions 1-9
*Select one to attend

Tuesday, August 21, 1984

0800 — 1400 Registration
0900 — 1200 Workshop Sessions
1400 — 1700 Workshop Sessions
1730 — 1900 Hosted Dinner

Wednesday, August 22, 1984

0800 — 1400 Registration
0900 — 1200 Workshop Sessions & Sub-Theme Plenaries
1200 — 1330 Hosted Luncheon
1345 — 1500 Plenary Session
Discussion of Conference End Products And Follow-up

Thursday, August 23, 1984

0900 — 1200 Registration
0900 — 1200 Plenary Session
Sub-Theme Presentations 1 — 9
1230 — 1500 Hosted Luncheon And Conference Summary

CONVENOR:

Douglas Gordon
Resource Management Advisor
Department of Indian Affairs
and Northern Development

MODERATOR:

Owen A. Anderson
Regional Director General
British Columbia Region
Department of Indian Affairs and
Northern Development

OFFICIAL GREETING TO THE PROVINCE OF BRITISH COLUMBIA:

Rod Robinson
Nishga Tribal Council

CONFERENCE BLESSING:

Simon Baker
Squamish Band

GUEST SPEAKERS:

Cam P. Mackie
Federal Coordinator
Native Economic Development Program
Regional Industrial Expansion Canada
Sidney Mills, Director
Office of Trust Responsibility
U.S. Bureau of Indian Affairs
Washington, D.C., U.S.A.

KEYNOTE ADDRESS:

"Toward Native Self-Reliance:
Renewal and Development"
George McRobie, Director
Schumacher Institute
London, England

Sunday, August 19, 1984 (continued)

George Watts, Chairman of the
Nuu-Chah-Nulth Tribal Council
Port Alberni, British Columbia, Canada
2130 — 2230 Wine and Cheese Reception
Presidential Suite (18th Floor)
Vice-Regal Suite (18th Floor)

Monday, August 20, 1984

0800 — 1400 Registration
0900 — 1100 PLENARY SESSION
(Commonwealth Ballroom West)

PANEL A: "PERSPECTIVES OF THE CANADIAN INDIAN SELF-GOVERNMENT REPORT"

MODERATOR:

Peter Clark, Resource Management
Policy Advisor
Department of Indian Affairs and
Northern Development

PRESENTERS:

The Honourable Warren Allmand
Member of Parliament
Montreal Notre-Dame-de-Grace
Ronald J. Shortt, Special Advisor to
the Native Council of Canada
Ottawa, Canada

Neil Sterritt, President
Gitskan Wet'suwet'en Tribal Council
Hazelton, British Columbia, Canada

Lester Lafond, President
D.C. Venture Capital Corporation
Saskatoon, Saskatchewan, Canada

Marty Dunn, Advisor
Constitutional Affairs
The Native Council of Canada
Ottawa, Canada

PANEL B: "PERSPECTIVES OF THE UNITED STATES PRESIDENTIAL COMMISSION ON INDIAN RESERVATION ECONOMIES"

PRESENTERS:

Ross O. Swimmer, Principal Chief
and Cochairman of the Presidential
Commission on Indian Reservation
Economies
Cherokee Nation
Tahlequah, Oklahoma, U.S.A.

Rebecca Adamson, Director
First Nations Financial Project
Falmouth, Virginia, U.S.A.
Ruben Snake, Chairman
Winnebago Tribe
Winnebago, Nebraska, U.S.A.

Robert Posner, Deputy Director
Center for Indian Economic Development
Berkeley, U.S.A.

- 1100 — 1120 Coffee Service (Hotel Foyer, 2nd Floor)
1120 — 1200 Questions from the Floor will be entertained by panel members
1200 — 1215 SUMMARY: Peter Clark
1215 — 1230 WORKSHOP INTRODUCTION AND ORIENTATION
Mike Lewis, West Coast Information and Research Cooperative
Port Alberni, British Columbia, Canada
1230 — 1400 NO-HOST LUNCH
1400 — 1700 SUB-THEME SESSIONS
(SELECT ONE TO ATTEND)

SUB-THEME 1

"COMMUNITY-BASED PLANNING AND ECONOMIC DEVELOPMENT"

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Mike Lewis, West Coast Information and Research Cooperative
Port Alberni, British Columbia, Canada

RECORDER:

Alain Cunningham, Regional Planner
British Columbia Region
Department of Indian Affairs and
Northern Development

PRESENTERS:

Rebecca Adamson, Director
First Nations Financial Project
Falmouth, Virginia, U.S.A.
Robert Posner, Deputy Director
Center for Indian Economic Development
Berkley, U.S.A.

Robin Dodson, Regional Executive
Director, Department of Regional
Industrial Expansion
Vancouver, British Columbia, Canada

George McRobie, Director
Schumacher Institute
London, England

SUB-THEME 2

"BUSINESS AND CORPORATE DEVELOPMENT STRATEGIES: NATIVE CORPORATE STRUCTURES: PERSPECTIVES ON CHOICES"

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

Beth J. Carter
Senior Economic Analyst
Ministry of Industry and Small
Business Development
Victoria, British Columbia, Canada

COORDINATOR:

W. W. (Bill) Mair
Development Consultant
Victoria, British Columbia, Canada

PRESENTERS:

Steven J. Brant, President
Brant and Brant Native Development Consultants
Deseronto, Ontario, Canada
Rodger Boyd, Director
Navajo Nation Offices
Washington, D.C., U.S.A.

Ron Scrimshaw
Manager of Native Affairs
NOVA, An Alberta Corporation
Calgary, Alberta, Canada

SUB-THEME 3

"FISHERIES AND AQUATIC RESOURCES"

LOCATION:

Commonwealth Ballroom East

MODERATOR:

J. R. (Ron) MacLeod, Special Advisor
to the Director General
Department of Fisheries and Oceans
Vancouver, British Columbia, Canada

Monday, August 20, 1984 (Continued)

RECORDER:

William F. Sinclair, Director
Economics and Resource Planning
Department of the Environment
Vancouver, British Columbia, Canada

PRESENTERS:

Douglas M. Ancona
Regional Counsel for NOAA
U.S. Department of Commerce
Seattle, Washington, U.S.A.

Tom Morehouse
Institute of Economic Research
University of Alaska
Anchorage, Alaska, U.S.A.

Howard Horton
Department of Fisheries and Wildlife
Oregon State University
Corvallis, Oregon, U.S.A.

George Hunter, Coordinator
Aquaculture Programs
Department of Fisheries and Oceans
West Vancouver, British Columbia, Canada

G. W. Robbins, Director
Arctic and Native Affairs
Department of Fisheries and Oceans
Ottawa, Ontario, Canada

Lonnie Hindle
Director of Native Programs
Department of Fisheries and Oceans
Vancouver, British Columbia, Canada

NOTE: TUESDAY WORKSHOP GROUPS WILL BE FORMED DURING THIS SESSION.

SUB-THEME 4

"CLAIMS SETTLEMENTS: AN HISTORICAL OVERVIEW OF NATIVES AND LAND CLAIMS IN CANADA AND THE UNITED STATES"

LOCATION:

Kamloops Room

MODERATOR:

Fred Walchli
Senior Negotiator for Native Claims
British Columbia Region
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RECORDER:

John L. Hall, Claims Analyst
Office of Native Claims
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

PRESENTERS:

The Honourable Thomas Berger
University of British Columbia
Vancouver, British Columbia, Canada

Peter Taylor, Solicitor
Senate Select Committee on Indian Affairs
Arlington, Virginia, U.S.A.

SUB-THEME 5

FOREST RESOURCES

LOCATION:

Prince George Room

MODERATOR:

Bill Ewing, President
C.D. Schultz and Company Limited
Vancouver, British Columbia, Canada

RECORDER:

Marni Robertson
A/NEED Coordinator
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

KEYNOTE ADDRESS:

"Pitfalls of Cross-Cultural Communication"
James Powell
Department of Anthropology
University of British Columbia
Vancouver, British Columbia, Canada

PRESENTERS:

Ray Hatch, Forestry Consultant
T.M. Thomson and Associates Ltd.
Victoria, British Columbia, Canada
Sandy McGechaen
Program Director, Diploma Program
Centre of Continuing Education
University of British Columbia
Vancouver, British Columbia, Canada

Chief Earl Smith
Ehattesaht Band
c/o Western Indian Agricultural
Corp. Ltd.
Vancouver, British Columbia, Canada

SUB-THEME 6

AGRICULTURAL AND WATER RESOURCES

LOCATION:

Pool Terrace (Upper Level,
4th Floor)

TIME:

1400 — 1500

MODERATOR:

H.V. Walker, Director,
Strategic Planning and Evaluation
Department of Regional and
Industrial Expansion
Vancouver, British Columbia, Canada

RECORDER:

Herb Fullerton, Assistant Director,
Office of Policy Analysis
U.S. Department of the Interior
Washington, D.C., U.S.A.

PRESENTER:

G.A. MacEachern
Deputy Minister
B.C. Ministry of Agriculture and Food
Victoria, British Columbia, Canada

TIME:

1500 — 1600

MODERATOR:

Herb Fullerton

PRESENTER:

Sidney Mills, Director
Office of Trust Responsibility
U.S. Bureau of Indian Affairs
Washington, D.C., U.S.A.

TIME:

1600 — 1700

(Participatory Question and Answer Session)

SUB-THEME 7**ARTS AND CRAFTS:**

"THE DISTRIBUTION OF HIDES: THE MARKETING OF CRAFTS"

LOCATION:

Burnaby Room

MODERATOR:

Fred Boden, Director
Native Community Branch
Ministry of Citizenship and Culture
Toronto, Ontario, Ottawa

RECORDER:

Gary Besharah, Area Supervisor
Native Community Branch
Ministry of Citizenship and Culture
Toronto, Ontario, Canada

PRESENTERS:

Johnny Yesno
Executive Director
First Nations Artisans Association
Toronto, Ontario, Canada

Paul Wyatt
Indian Reserve Policy Advisor
Ministry of Natural Resources
Peterborough, Ontario, Canada

SUB-THEME 8**TOURISM AND RECREATION: AN OVERVIEW****LOCATION:**

Trail Room

MODERATOR:

James R. MacGregor
Land Resource and Tourism Planner
MacLaren Plansearch Corporation
Vancouver, British Columbia, Canada

RECORDER:

Kevan Tisshaw
President
arete Projects Ltd.
Vancouver, British Columbia

PRESENTERS:

James R. MacGregor
Kevan Tisshaw
Wayne Chattin
Assistant to the Secretary
Bureau of Indian Affairs
Golden, Colorado, U.S.A.
Claude Guerette
Festival Coordinator
Huron Village, Festival '84
Tall Ships Program
Quebec, Canada

SUB-THEME 9

NON-RENEWABLE RESOURCES: OWNERSHIP AND MANAGEMENT OF MINERALS IN CANADA AND THE UNITED STATES

LOCATION:

Penticton Room

MODERATOR:

George Thomas
Indian Lands Coordinator
ARCO Explorations Limited
Denver, Colorado, U.S.A.

RECORDER:

Ed Moore, Consultant
Calgary, Alberta, Canada

PRESENTERS:

W. Dombroski, Manager, Land Division, Indian Minerals (West)
Department of Indian Affairs and Northern Development
Calgary, Alberta, Canada
Jack Martin
Consultant to the Bureau of Indian Affairs
Rockville, Maryland, U.S.A.

TIME:

1700 — 1900

DELEGATES INVITED TO ATTEND AN ALL CANDIDATES MEETING ON THE PENDING CANADIAN FEDERAL ELECTION:

THEME OF THE DISCUSSION:

NATIVE ISSUES IN CANADA

LOCATION:

Conference Room
Nancy Morrison — Liberal Candidate
Frank Oberle — Progressive
Conservative Candidate
Ian Waddell — New Democratic Candidate
Sponsored by the Professional
Native Women's Association

Tuesday, August 21, 1984

SUB-THEME 1

WORKSHOP SESSIONS

"COMMUNITY-BASED PLANNING AND ECONOMIC DEVELOPMENT"

(Select one to attend)

A. FOUNDATION QUESTIONS: WHAT IS SELF-RELIANCE?

TIME:

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Alain Cunningham
Regional Planner
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RECORDER:

Bill Buholzer
District Planner
Vancouver District
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RESOURCE

Jacques Seronde

CONSULTANTS:

Economic Development Coordinator
Tribal Sovereignty Program/Seventh
Generation Fund
Flagstaff, Arizona, U.S.A.

George McRobie
Director
Schumacher Institute
London, England

B. PLANNING FOR COMMUNITY ECONOMIC DEVELOPMENT

TIME:

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Don Ryan, Chairman
Gitskan Wet'suwet'en Tribal
Council Association
Hazelton, British Columbia, Canada

RECORDER:

Tracey Olsen, District Planner
Northwest District
Department of Indian Affairs and
Northern Development
Terrace, British Columbia, Canada

RESOURCE

Robert Posner

CONSULTANT:

Deputy Director
Centre for Indian Economic
Development
Berkeley, California, U.S.A.

C. MARKETING AND FINANCIAL SELF-SUFFICIENCY APPROACH TO COMMUNITY ECONOMIC DEVELOPMENT

TIME:

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Mike Lewis
West Coast Information and
Research Cooperative
Port Alberni, British Columbia,
Canada

RECORDER:

Martin Kobayakawa
District Planner
Department of Indian Affairs and
Northern Development
Fort St. John, British Columbia, Canada

RESOURCE CONSULTANT:

Rebecca Adamson
Director
First Nations Financial Project
Falmouth, Virginia, U.S.A.

Chuck Jacobs
Field Specialist
First Nations Financial Project
Falmouth, Virginia, U.S.A.

SUB-THEME 2

WORKSHOP SESSIONS "BUSINESS AND CORPORATE DEVELOPMENT STRATEGIES"

(Select one to attend)

A. WHAT WORKS IN VENTURE MANAGEMENT?

TIME:

0900 — 1200

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

Beth J. Carter
Senior Economic Analyst
Ministry of Industry and Small
Business Development
Victoria, British Columbia, Canada

RECORDER:

Jim Morrison
Band Management Consultant
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

PRESENTERS:

Henry Mah, Director
Indian Business Development Services
Edmonton, Alberta, Canada

Rodger Boyd, Director
Navajo Nation Office
Washington, D.C., U.S.A.

Bill Williams, Principal
Aboriginal Management Consultants
North Vancouver, British Columbia, Canada

J. W. (Jack) Beaver, P. Eng.
Cobourg, Ontario, Canada

B. WHAT WORKS IN JOINT VENTURES AND CONTRACTING ON MAJOR PROJECTS?**TIME:**

0900 — 1200

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

Michael Robinson
Polar Gas Project
Calgary, Alberta, Canada

RECORDER:

Gary Leitch, Supervisor
Socio-Economic Assessment
Petro-Canada
Calgary, Alberta, Canada

PRESENTERS:

Ron Scrimshaw
Manager, Native Affairs
NOVA, An Alberta Corporation
Calgary, Alberta, Canada

George Calliou
Socio-Economic Assessment
Petro-Canada
Calgary, Alberta, Canada

George Mallett
Native Affairs Coordinator
Husky Oil Operations Ltd.
Calgary, Alberta, Canada

Doug Bruchet, Manager
Socio-Economic Assessment
Petro-Canada
Calgary, Alberta, Canada
Chief Simon Sparklingeyes
Tribal Chiefs Association
Goodfish Lake, Alberta, Canada

C. WHAT WORKS IN VENTURE FINANCING?**TIME:**

1300 — 1500

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

Steven J.R. Brant, President
Brant and Brant Native
Development Consultants Limited
Deseronto, Ontario, Canada

RECORDER:

Brian Payer, Project Analyst
Western Region
Native Economic Development Program
Vancouver, British Columbia, Canada

PRESENTERS:

Lester Lafond
President
D.C. Venture Capital Corporation
Saskatoon, Saskatchewan, Canada

Byd McBain
Vice-President
Native Banking, Northland Bank
Calgary, Alberta, Canada

Bertha Joseph
Commerce Officer
Native Economic Development Program
Vancouver, British Columbia, Canada

RESOURCE

Doug Murphy, Partner

CONSULTANT:

Thorne Riddell, Chartered Accountants
New Westminster, British Columbia, Canada

TIME:

1400 — 1700 (Sub-theme delegates are expected to attend workshop of their choice in other sub-theme areas.)

SUB-THEME 3**WORKSHOP SESSION**

"FISHERIES AND AQUATIC RESOURCES"
(Select one to attend)

WORKSHOP A**TIME:**

0900 — 1200 and 1400 — 1700

RECORDER:

Commonwealth Ballroom East

MODERATOR:

J. R. (Ron) MacLeod
Special Advisor to the Director General
Department of Fisheries and Oceans
Vancouver, British Columbia, Canada

RECORDER:

Fred Carpenter, Community Advisor
Pacific Salmonid Enhancement Program
Department of Fisheries and Oceans,
Vancouver, British Columbia, Canada

RESOURCE CONSULTANT:

Howard Paish
Natural Resource Planning Consultant
Vancouver, British Columbia, Canada

WORKSHOP B**TIME:**

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom East

MODERATOR:

J. R. (Ron) MacLeod
 Special Advisor to the Director General
 Department of Fisheries and Oceans
 Vancouver, British Columbia, Canada

RECORDER:

Alvin Dixon, Commissioner
 International Salmon Fisheries Commission
 Vancouver, British Columbia, Canada

RESOURCE CONSULTANT:

Howard Paish
 Natural Resource Planning Consultant
 Vancouver, British Columbia, Canada

WORKSHOP C**TIME:**

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom East

MODERATOR:

J. R. (Ron) MacLeod
 Special Advisor to the Director General
 Department of Fisheries and Oceans
 Vancouver, British Columbia, Canada

RECORDER:

Cliff Atleo
 Native Brotherhood of British Columbia
 Vancouver, British Columbia, Canada

RESOURCE CONSULTANT:

Tom Northcott
 Legal Advisor
 Department of Fisheries and Oceans
 Vancouver, British Columbia, Canada

WORKSHOP D**TIME:**

0900 — 1200 and 1400 — 1700

LOCATION:

Commonwealth Ballroom East

MODERATOR:

J. R. (Ron) MacLeod
 Special Advisor to the Director General
 Department of Fisheries and Oceans
 Vancouver, British Columbia, Canada

RECORDER:

Bill Green
 West Coast Information and Research Cooperative
 Port Alberni, British Columbia, Canada

RESOURCE CONSULTANT:

Lawrence Evans
 Economist
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

SUB-THEME 4**WORKSHOP SESSIONS****"CLAIMS SETTLEMENTS"**

(Select one to attend)

A. CLAIMS SETTLEMENTS IN PRACTICE**TIME:**

0900 — 1200

LOCATION:

Pool Terrace (Upper Level, 4th Floor)

MODERATOR:

John L. Hall, Claims Analyst
 Office of Native Claims
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

RECORDER:

Anne Biggs, Executive Secretary to
 Senior Negotiator for Native Claims
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

RESOURCE:

Clovis Demers
 Assistant Deputy Minister,
 Policy and Planning,
 Department of Indian Affairs and
 Northern Development
 Ottawa, Ontario, Canada

Janet Harper, Consultant
 Office of Native Claims
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

Ted Wilson, Director
 Office of Indian Resource Policy
 Ministry of Natural Resources
 Toronto, Ontario, Canada

B. THE NATURE OF LEGAL RECOGNITION OF AB-ORIGINAL TITLE**TIME:**

0900 — 1200

LOCATION:

Pool Terrace (Upper Level, 4th Floor)

MODERATOR:

David Sparks, Assistant Negotiator
 Comprehensive Claims
 Office of Native Claims
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

RECORDER:

Peter Vranjkovic
 Senior Claims Analyst
 Office Native Claims
 Department of Indian Affairs and
 Northern Development
 Vancouver, British Columbia, Canada

RESOURCE PERSONS:

Chief Joe Mathias
 Squamish Indian Band Administration
 North Vancouver, British Columbia, Canada

Michael Jackson, Professor
Faculty of Law
University of British Columbia
Vancouver, British Columbia, Canada

C. THE OBJECTIVE OF CLAIMS SETTLEMENTS

TIME:

1400 — 1700

LOCATION:

Pool Terrace (Upper Level, 4th Floor)

MODERATOR:

Manfred Klein
Negotiator for Specific and Cut Off Claims
Office of Native Claims
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RECORDER:

Jacques Siegrist, Claims Analyst
Office of Native Claims
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RESOURCE PERSONS:

Rod Robinson, Nisgaha Tribal Council
New Aiyansh, British Columbia, Canada

Janie Leaske
President
Alaska Federation of Natives
Anchorage, Alaska, U.S.A.

Marc Lafreniere
Senior Negotiator
CAM Claims, Office of Native Claims
Department of Indian Affairs and
Northern Development
Labrador, Newfoundland, Canada

SUB-THEME 5

WORKSHOP SESSIONS

"FOREST RESOURCES"

(Select one to attend)

A. INDIAN RESERVES — FOREST RESOURCE MANAGEMENT

TIME:

1400 — 1700

LOCATION:

Prince George Room

MODERATOR:

Ray Hatch
Forestry Consultant

T.M. Thomson and Associates Ltd.
Victoria, British Columbia, Canada

RECORDER:

Al Hopwood
Canadian Forest Service
Ottawa, Ontario, Canada

PRESENTERS:

Ed John, President
Tanizul Timber
Prince George, British Columbia, Canada

Al Hopwood
Canadian Forest Service
Ottawa, Ontario, Canada

Jim Cooper, President
Cariboo Indian Enterprises
Williams Lake, British Columbia, Canada

B. TRAINING AND DEVELOPMENT OF NATIVE PEOPLE FOR THE FOREST INDUSTRY

TIME:

0900 — 1200 and 1400 — 1700

LOCATION:

Prince George Room

MODERATOR:

Sandy McGechaen, Program Director
Diploma Program, Centre for
Continuing Education
University of British Columbia
Vancouver, British Columbia, Canada

RECORDER:

Jennifer Parkinson
District Forester
Department of Indian Affairs and
Northern Development
Prince George, British Columbia, Canada

PRESENTERS:

Robert Guerin
Executive Director
Indian Training and Research Institute
Vancouver, British Columbia, Canada

Greg Tolliday
Western Training Division
Canada Employment and Immigration Commission
Vancouver, British Columbia, Canada

Bob Chisholm
Head of Forestry Training Technology
British Columbia Institute of Technology
Burnaby, British Columbia, Canada

Fortunato Pacdos-Rivera
President
International Forest Search
Prince Albert, Saskatchewan, Canada

C. FINANCING NATIVE FOREST INDUSTRIES

TIME:

0900 — 1200 and 1400 — 1700

LOCATION:

Prince George Room

MODERATOR:

Chief Earl Smith
Ehattesaht Band
c/o Western Indian Agricultural
Corp. Ltd.
Vancouver, British Columbia, Canada

RECORDER:

Dave Walkem
Project Analyst
Native Economic Development Program
Vancouver, British Columbia, Canada

PRESENTERS:

Harold Derickson, Councillor
Westbank Band Administration
Westbank, British Columbia, Canada

Jim Hulstein, Senior Industrial
Program Officer
Department of Regional Industrial Expansion
Vancouver, British Columbia, Canada

SUB-THEME 6

WORKSHOP SESSION
"AGRICULTURE RESOURCES"

TIME:

0900 — 1200

LOCATION:

Executive Board Room (A Level)

MODERATOR:

H. V. Walker, Director
Strategic Planning and Evaluation
Department of Regional Industrial Expansion
Vancouver, British Columbia, Canada

RECORDER:

Herb Fullerton, Assistant Director
Office of Policy Analysis
U.S. Department of Interior
Washington, D.C., U.S.A.

PANEL MEMBERS:

Brian Walker, Program Officer
(SARDA)
Department of Regional Industrial Expansion
Vancouver, British Columbia, Canada

Alejandro Palacios, General Manager
Western Indian Agricultural Corp. Ltd.
Vancouver, British Columbia, Canada

Ken Thomas
Program Manager
Saskatchewan Indian Agricultural
Program Incorporated
Regina, Saskatchewan, Canada

Ruben Snake, Chairman
Winnebago Tribe
Winnebago, Nebraska, U.S.A.

Forrest Gerard, President
Gerard, Byler & Associates
Washington, D.C., U.S.A.

TIME:

1300 — 1400 Luncheon
Meeting of Proceedings Editorial Board

WORKSHOP SESSION
"WATER RESOURCES"

TIME:

1400 — 1700

LOCATION:

Kamloops Room

MODERATOR:

Mac McKee, Research Associate
Water Research Laboratory
Utah State University
Logan, Utah, U.S.A.

RECORDER:

Herb Fullerton

PANEL MEMBERS:

R. D. Hansen, Planning Team Leader
Central Utah Project
U.S. Bureau of Reclamation
Provo, Utah, U.S.A.

A. LeBaron, Professor of Economics
Utah State University
Logan, Utah, U.S.A.

R. Nelson, Senior Economic Analyst
U.S. Department of Interior
Washington, D.C., U.S.A.

P. Corke, Policy Analyst
U.S. Bureau of Indian Affairs
Washington, D.C., U.S.A.

Forrest Gerard, President
Gerard, Byler & Associates
Washington, D.C., U.S.A.

SUB-THEME 7

WORKSHOP SESSION

*"OUT OF THE PAST AND INTO THE FUTURE: THE
ROLE OF THE ONTARIO ARTS COUNCIL IN DE-
VELOPING NATIVE ART"*

TIME:

0900 — 1200

LOCATION:

Trail Room

MODERATOR:

Fred Boden, Director
Native Community Branch
Ministry of Citizenship and Culture
Toronto, Ontario, Canada

RECORDER:

Gary Besharah, Area Supervisor
Native Community Branch
Ministry of Citizenship and Culture
Thunder Bay, Ontario, Canada

PRESENTER:

Walter Sunahara, Consultant
Community Arts Development Office
Ontario Arts Council
Toronto, Ontario, Canada

WORKSHOP SESSION

*"ECONOMIC AND MODELLING POTENTIAL OF THE
ARTS"*

TIME:

1400 — 1700

LOCATION:

Trail Room

Tuesday, August 21, 1984 (Continued)

MODERATOR:

Fred Boden

RECORDER:

Gary Besharah

PRESENTER:

Tom Hill, Curator
Woodland Indian Cultural
Educational Centre
Brantford, Ontario, Canada

SUB-THEME 8

WORKSHOP SESSION

*"TOURISM AND RECREATION: PRESENTATION OF
EXISTING SUCCESSFUL PROJECTS"*

TIME:

0900 — 1200

LOCATION:

Presidential Suite (10th Floor)

MODERATOR:

James R. MacGregor,
Land Resource and Tourism Planner
MacLaren Plansearch Corporation
Vancouver, British Columbia, Canada

RECORDER:

Kevan Tisshaw, President
arete Projects Ltd.
Vancouver, British Columbia, Canada

PANEL MEMBERS:

Bill Hewitt, President
Tillicum Village, Washington, U.S.A.

Bernie Whitebear, General Manager
International Native Tour Brokers
Seattle, Washington, U.S.A.

Claude Guerette
Festival Coordinator
Huron Village, Festival '84,
Tall Ships Program
Quebec City, Canada

WORKSHOP SESSION

*"TOURISM AND RECREATION: PRESENTATION OF
EXISTING SUCCESSFUL PROJECTS"*

TIME:

1400 — 1700

LOCATION:

Presidential Suite (10th Floor)

Tuesday, August 21, 1984 (Continued)

MODERATOR:

James R. MacGregor

RECORDER:

Kevan Tisshaw

PANEL MEMBERS:

Neil Sterritt, Founder
K'san Project
Hazelton, British Columbia, Canada

Jean Picard, President of
POW/WOW Quebec
Huron Village, Quebec, Canada

Michael McConigle
Faculty of Law and Environment
University of British Columbia
Vancouver, British Columbia, Canada

Allan Kite
Tourism Director
Gila River Indian Tribe
Cave Creek, Arizona, U.S.A.

SUB-THEME 9

WORKSHOP SESSION

*"NON-RENEWABLE RESOURCES: TAXATION UNITED
STATES AND TAXATION CANADA"*

TIME:

0900 — 1200

LOCATION:

Vice-Regal Suite

MODERATOR:

George Thomas
Indian Lands Coordinator
ARCO Explorations Limited
Denver, Colorado, U.S.A.

RECORDER:

Ed Moore, Consultant
Calgary, Alberta, Canada

PRESENTERS:

W. Toms
Director of Fiscal Analysis
Energy, Mines & Resources, Canada
Ottawa, Ontario, Canada

WORKSHOP SESSION

*"NON-RENEWABLE RESOURCES: HISTORICAL PER-
SPECTIVES OF RESOURCE DEVELOPMENT ON IN-
DIAN LAND"*

TIME:

1400 — 1700

LOCATION:

Vice-Regal Suite

MODERATOR:

George Thomas

RECORDER:

Ed Moore

PRESENTERS:

Doug Bouey, Lawyer
Walsh and Young
Calgary, Alberta, Canada

EVENING EVENT

THEME:

Relax and Enjoy (Hosted Dinner)

TIME:

1930 — 2100

LOCATION:

Commonwealth Ballroom West

Wednesday, August 22, 1984

0800 — 1400

Registration

SUB-THEME 1

WORKSHOP SESSIONS

"COMMUNITY BASED PLANNING AND ECONOMIC DEVELOPMENT"

(Select one to attend).

A. FOUNDATION QUESTIONS:

WHAT IS SELF-RELIANCE?

TIME:

0900 — 1030

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Alain Cunningham

Regional Planner

Department of Indian Affairs and

Northern Development

Vancouver, British Columbia, Canada

RECORDER:

Bill Buholzer

District Planner

Vancouver District

Department of Indian Affairs and

Northern Development

Vancouver, British Columbia, Canada

RESOURCE CONSULTANTS:

Jacques Seronde

Economic Development Coordinator

Tribal Sovereignty Program/Seventh

Generation Fund

Flagstaff, Arizona, U.S.A.

George McRobie, Director

Schumacher Institute

London, England

B. PLANNING FOR COMMUNITY ECONOMIC DEVELOPMENT

TIME:

0900 — 1030

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Don Ryan, Chairman

Gitskan Wet'suwet'en Tribal

Council Association

Hazelton, British Columbia, Canada

RECORDER:

Tracey Olsen, District Planner

Northwest District

Department of Indian Affairs and

Northern Development

Terrace, British Columbia, Canada

RESOURCE CONSULTANT:

Robert Posner, Deputy Director

Centre for Indian Economic Development

Berkeley, California, U.S.A.

C. MARKETING AND FINANCIAL SELF-SUFFICIENCY APPROACH TO COMMUNITY ECONOMIC DEVELOPMENT

TIME:

0900 — 1030

LOCATION:

Commonwealth Ballroom West

MODERATOR:

Mike Lewis

West Coast Information and Research Cooperative

Port Alberni, British Columbia, Canada

RECORDER:

Martin Kobayakawa

District Planner

Department of Indian Affairs and

Northern Development

Fort St. John, British Columbia, Canada

RESOURCE CONSULTANT:

Rebecca Adamson, Director

First Nations Financial Project

Falmouth, Virginia, U.S.A.

Chuck Jacobs, Field Specialist

First Nations Financial Project

Falmouth, Virginia, U.S.A.

SUB-THEME 1

SUMMARY

TIME:

1030 — 1200

LOCATION:

Commonwealth Ballroom West

SUB-THEME 2

"BUSINESS AND CORPORATE DEVELOPMENT STRATEGIES: SUB-THEME PLENARY"

TIME:

0900 — 1200

LOCATION:

Prince George Room

"WHAT WORKS IN BUSINESS FINANCING?"

CONVENOR:

W. W. (Bill) Mair

Development Consultant

Victoria, British Columbia, Canada

"A DISCUSSION PAPER: SUCCESSFUL STRATEGIES IN BUSINESS AND CORPORATE DEVELOPMENT"

SPECIAL RESOURCE:

Graham Allen

Gardner, Snarch and Allen

Vancouver, British Columbia, Canada

SUB-THEME 3

"FISHERIES AND AQUATIC RESOURCES": SUB-THEME PLENARY

TIME:

0900 — 1200

LOCATION:

Kamloops Room

MODERATOR:

J. R. (Ron) MacLeod, Special Advisor
to the Director General
Department of Fisheries and Oceans
Vancouver, British Columbia, Canada

RECORDER:

William F. Sinclair, Director
Economics and Resource Planning
Department of the Environment
Vancouver, British Columbia, Canada

PRESENTERS:

WORKSHOP RECORDERS REPORT
DISCUSSION
SUMMARY STATEMENT DEVELOPED

SUB-THEME 4

*"CLAIMS SETTLEMENTS: LAND CLAIMS AND THE
FUTURE"*

TIME:

0900 — 1200

LOCATION:

Pool Terrace (Upper Level, 4th Floor)

MODERATOR:

Fred Walchli
Senior Negotiator for Native Claims
British Columbia Region
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

RECORDER:

Jeannie Boivin, Claims Analyst
Office of Native Claims
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

PANELISTS:

Neil Sterritt
Gitskan-Wet'suwet'en Tribal Council
Hazelton, British Columbia, Canada

Douglas Sanders, Professor
Faculty of Law
University of British Columbia
Vancouver, British Columbia, Canada

Ted Wilson
Office of Indian Resource Policy
Ministry of Natural Resources
Toronto, Ontario, Canada

SUB-THEME 5

"FOREST RESOURCES": SUB-THEME PLENARY

TIME:

0900 — 1200

LOCATION:

Pool Terrace (Lower Level, 4th Floor)

MODERATOR:

Sandy McGechaen, Program Director
Diploma Program, Centre for Continuing Education
University of British Columbia
Vancouver, British Columbia, Canada

RECORDER:

Jennifer Parkinson
District Forester
Department of Indian Affairs and
Northern Development
Prince George, British Columbia, Canada

PRESENTERS:

WORKSHOP RECORDERS REPORT
DISCUSSION
SUMMARY STATEMENT DEVELOPED

SUB-THEME 6

*PANEL ON AGRICULTURE AND WATER RESOURCE
ISSUES*

TIME:

0900 — 1200

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

H. V. Walker, Director
Strategic Planning and Evaluation
Department of Regional Industrial Expansion
Vancouver, British Columbia, Canada

RECORDER:

Herb Fullerton, Assistant Director
Office of Policy Analysis
U.S. Department of Interior
Washington, D.C., U.S.A.

PANEL MEMBERS:

G. MacEachern
Deputy Minister
B.C. Ministry of Agriculture and Food
Victoria, British Columbia, Canada

Ruben Snake, Chairman
Winnebago Tribe
Winnebago, Nebraska, U.S.A.

Mac McKee, Research Associate
Water Research Laboratory
Utah State University
Logan, Utah, U.S.A.

Forrest Gerard, President
Gerard, Byler & Associates
Washington, D.C., U.S.A.

A. LeBaron, Professor of Economics
Utah State University
Logan, Utah, U.S.A.

R. Nelson, Senior Economic Analyst
U.S. Department of Interior
Washington, D.C., U.S.A.

**AGRICULTURE AND WATER RESOURCES: PLEN-
ARY SYNTHESIS AND WRAP UP****TIME:**

1500 — 1700

LOCATION:

Commonwealth Ballroom Centre

MODERATOR:

H.V. Walker

RECORDER:

H. Fullerton

SUB-THEME 7**WORKSHOP SESSION:***"ARTS AND CRAFTS: NATIVE WRITERS IN THE THEATRE"***TIME:**

0900 — 1700

LOCATION:

Vice-Regal Suite

MODERATOR:Fred Boden, Director
Native Community Branch
Ministry of Citizenship and Culture
Toronto, Ontario, Canada**RECORDER:**Gary Besharah, Area Supervisor
Northwestern Ontario Native
Community Branch
Ministry of Citizenship and Culture
Thunder Bay, Ontario, Canada**PRESENTERS:**Thomson Highway
Composer and Playwrite
c/o Ministry of Citizenship and Culture
Toronto, Ontario, Canada**SUB-THEME 7***"ARTS AND CRAFTS": SUB-THEME PLENARY***TIME:**

1030 — 1200

LOCATION:

Vice-Regal Suite

MODERATOR:

Fred Boden

RECORDER:

Gary Besharah

PRESENTERS:

WORKSHOP RECORDERS REPORT DISCUSSION

SUMMARY STATEMENT DEVELOPED**SUB-THEME 8****TOURISM AND RECREATION:***"PRESENTATION OF PROPOSED PROJECTS"***TIME:**

0900 — 1200

LOCATION:

Commonwealth Ballroom East

MODERATOR:James R. MacGregor
Land Resource and Tourism Planner
MacLaren Plansearch Corporation
Vancouver, British Columbia, Canada**RECORDER:**Kevan Tisshaw, President
arete Projects Ltd.
Vancouver, British Columbia, Canada**PANEL MEMBERS:**Pat Stephenson, Director
Rediscovery Society
Masset, Queen Charlotte Islands,
British Columbia, CanadaMs Dawnena Walkingstick
Tourism and Travel Coordinator
Eastern Cherokee Nation
Cherokee, North Carolina, U.S.A.**SUB-THEME 9****WORKSHOP SESSION***"NON-RENEWABLE RESOURCES: CORPORATE VIEW-POINT, NEEDS AND RESOURCES"***TIME:**

0900 — 1200

LOCATION:

Executive Board Room (A Level)

MODERATOR:George Thomas
Indian Lands Coordinator
ARCO Explorations Limited
Denver, Colorado, U.S.A.**RECORDER:**Ed Moore, Consultant
Calgary, Alberta, Canada**PRESENTERS:**Ron Scrimshaw
Manager of Native Affairs,
NOVA, An Alberta Corporation
Calgary, Alberta, Canada
Lionel Munaweera
Acting Director of Employment and
Training Resources
Economic and Employment Branch
Department of Indian Affairs and
Northern Development
Ottawa, Ontario, CanadaConrad Edwards, Executive Director
Council for Tribal Employment Rights
Yakima, Washington, U.S.A.
Norbert Hill, Jr.
Executive Director of the American Indian Science
and Engineering Society
Boulder, Colorado, U.S.A.**(HOSTED LUNCHEON)****COMMONWEALTH BALLROOM WEST****TIME:**

1300 — 1430

AFTERNOON EVENT**THEME:**DISCUSSION OF CONFERENCE END PRODUCTS
AND FOLLOW-UP**TIME:**

1430 — 1600

LOCATION:

Commonwealth Ballroom East

CONVENOR:

Beth J. Carter
Senior Economic Analyst
Ministry of Industry and Small
Business Development
Victoria, British Columbia, Canada

PRESENTERS:

William F. Sinclair, Director
Economic and Resource Planning
Department of the Environment
Vancouver, British Columbia, Canada

Peter Clark
Resource Management Policy Advisor
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada
Douglas Gordon
Resource Management Advisor
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

Thursday, August 23, 1984

0900 — 1200

Registration

PLENARY SESSION:

Sub-Theme Conclusions

MODERATOR:

William F. Sinclair, Director
Economic and Resource Planning
Department of the Environment
Vancouver, British Columbia, Canada

TIME:

0900 — 1300

LOCATION:

Commonwealth Ballroom East

THEME:

Well-prepared and concise presentations by sub-theme coordinators with questions from the audience

COFFEE SERVICE:

Available during plenary session

HOSTED LUNCHEON**AND CONFERENCE SUMMARY****TIME:**

1230 — 1500

LOCATION:

Commonwealth Ballroom West

THEME:

Toward Native Self-Reliance:
Renewal and Development

MODERATOR:

Douglas Gordon
Resource Management Advisor
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

SYNTHESIZERS:

Gordon Antoine — "The Native Perspective"
Nicola Valley Indian Administration
Merrit, British Columbia, Canada

Jack Beaver — "The Corporate Perspective"
Cobourg, Ontario, Canada

Fred Walchli — "The Government Perspective"
Senior Negotiator for Native Claims
Department of Indian Affairs and
Northern Development
Vancouver, British Columbia, Canada

OFFICIAL CLOSING:

Simon Baker
Squamish Band
Squamish, British Columbia, Canada

APPENDIX III

REGISTERED CONFERENCE DELEGATES

(Names, Addresses, and Telephone Numbers)

ADAMSON, Rebecca
President
First Nations Financial Project
Route 14, Box 74
Falmouth, VIRGINIA
USA 22405
(b) 703-371-5615
(r) 703-371-5659

AGLUKARK, David
Tungavik Federation of Nunavut
Eskimo General Delivery
Eskimo Point, N.W.T.
CANADA X0E 0C0
(b) 819-857-2866

ALEXIS, Murray
Chief
Okanagan Indian Band
R.R. #7, Westside Road
Vernon, BRITISH COLUMBIA
CANADA V1T 7Z3
(b) 604-542-4328
(r) 604-545-6641

ALLEN, Graham
Gardner, Snarch & Allen
Barristers & Solicitors
225 Smithe Street
Vancouver, BRITISH COLUMBIA
CANADA V6B 4X7
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ALLMAND, Warren (The Hon.)
Member of Parliament, Montreal
Notre-Dame-de-Grace
Room 378, Confederation Building
House of Commons
Ottawa, ONTARIO
CANADA K1A 0A6
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ANCONA, Douglas M.
Northwest Regional Counsel, U.S.
Department of Commerce/NOAA
7600 Sandpoint Way, N.E.
Seattle, WASHINGTON
USA 98115
(b) 206-526-6075

ANDERSON, Geoff
Director
Occupational Services, Alta. Man.
17th Floor, Park Square Building
1001 Bellamy Hill
Edmonton, ALBERTA
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ANDERSON, Owen A.
Regional Director General
I.N.A. Canada, B.C. Region
P.O. Box 1000, 800 Burrard Street
Vancouver, BRITISH COLUMBIA
CANADA V6Z 2J3
(b) 604-666-2546

ANTOINE, Gordon
Nicola Valley Indian Admin.
Box 188
Merritt, BRITISH COLUMBIA
CANADA V0K 2B0
(b) 604-378-4235

ARCHIE, Marge
Band Planner
Canim Lake Band
Box 1030
100 Mile House, B.C.
CANADA V0K 2E0
(b) 604-397-2227

ARNSTEIN, Rob
District Planner, I.N.A. Canada
1260 Island Highway
Kamloops, BRITISH COLUMBIA
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